

**RECOMMENDATIONS****COMMUNITY PLANNING GROUP/STAFF'S/PLANNING COMMISSION****CASE NO. 149101**

- 
1. **Certify** Addendum No. 149101 to Mitigated Negative Declaration 5540, and Adopt the Mitigation Monitoring and Reporting Program; and
  2. **Approve** Tentative Map No. 525789, Planned Development Permit No. 525776, Site Development Permit No. 525777.
- 

**PLANNING COMMISSION** (list names of Commissioners voting yea or nay)**YEAS:** Schultz, Griswold, Nasland, Ontai**NAYS:****ABSTAINING:** Otsuji

TO: Support Staff's recommendation with one modification to the project; to urge the City Council to include a permit condition to the project to become efficient with resources, including energy, water, and materials associated with construction, as demonstrated in Council Policy 900-14 "Green Building Policy" adopted in 1997, Council Policy 900-16 "Community Energy Partnership," Adopted in 2000, and the adopted General Plan.

**COMMUNITY PLANNING GROUP**

X The Clairemont Mesa Community Planning Group voted, on March 18, 2008, 11:00 to approve the proposed actions

By:

  
Farah Mahzari  
Development Project Manager



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THE CITY OF SAN DIEGO

## REPORT TO THE PLANNING COMMISSION

**DATE ISSUED:** March 27, 2008 **REPORT NO.** PC-08-042

**ATTENTION:** Planning Commission, Agenda of April 3, 2008

**SUBJECT:** BAY VIEW PLAZA- PROJECT NO. 149101- PROCESS FIVE

**REFERENCE:** Site Development Permit No. 9100, Planned Development Permit No. 179619; and Tentative Map No. 179620 (Attachment 9)

**OWNER/  
APPLICANT:** Burgener-Clark, LLC/ Jeff Rogers

### SUMMARY

**Issue:** Should the Planning Commission **RECOMMEND** to the City Council **APPROVAL** to construct a 74,870 square foot commercial center in the Clairemont Mesa Community Plan area?

### Staff Recommendation:

1. **RECOMMEND** City Council **CERTIFY** Addendum No. 149101 to the previously certified Mitigated Negative Declaration No. 5540;
2. **RECOMMEND** City Council **APPROVAL** of Planned Development Permit (PDP) No. 525776, Site Development Permit (SDP) No. 525777, and Tentative Map (TM) No. 525789.

**Community Planning Group Recommendation:** The Clairemont Mesa Community Planning Group voted unanimously (11-0) in favor of the project on March 18, 2008 with no conditions.

**Environmental Review:** An Addendum to the previously certified MND for the Bay View Project (MND No. 5540) was prepared in compliance with the California Environmental Quality Act. Based on review of the current proposal, it has been determined there are no new significant environmental impacts not considered in the



previous Mitigated Negative Declaration No. 5540; no substantial changes have occurred with respect to the circumstances under which the project is undertaken; and there is no new information of substantial importance to the project. Therefore, an Addendum was prepared in accordance with Section 15164 of the State CEQA Guidelines.

**Fiscal Impact Statement:** None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

**Code Enforcement Impact:** None with this action.

**Housing Impact Statement:** The project proposes the demolition and redevelopment of an existing commercial center on a site that is designated for General Commercial uses in the Clairemont Mesa Community Plan. As such, there would be no impacts to the City's housing stock as a result of the proposed project.

## **BACKGROUND**

The property is located at 2509-2591 Clairemont Drive east of Mission Bay, Interstate 5 and Morena Boulevard, north of Ingulf Street, west of Denver Street and south of Clairemont Drive (Attachments 1&3). The site is within the Clairemont Mesa Community Plan area, and is designated for general commercial land use (Attachment 2).

On April 19, 2005, the City Council approved Site Development Permit No. 9100, Planned Development Permit No. 179619, and Tentative Map No. 179620 for demolition of existing commercial buildings and construction of 86,770 square feet of shopping center, including retail commercial, restaurant and office uses to be constructed in two phases.

**Phase One of previously approved project:** A Major Retail Building, single-level with mezzanine structure totaling 48,240 square feet; Building one, a three-level, restaurant, retail and office structure comprising 11,606 square feet; Building two, a two-level retail and restaurant structure comprising 15,126 square feet; Building three, a single-level with mezzanine retail structure comprising 2,998 square feet; and Parking Structure, an upper-level, 89,686 square feet, and lower-level, 88,747 square feet parking structure, to provide a total of 483 off-street parking spaces.

**Phase Two of previously approved project:** A Retail Commercial and/or Office, a two-level, 8,800 square foot office and/or retail commercial building; and expansion of the upper-level parking deck and/or lower-level parking garage.

On December 20, 2007, a demolition permit was issued to demolish an existing 19,000 square-foot one story commercial building. Once this building is demolished, the existing Jack in the Box, Lube and Car Wash, and a small drive-up kiosk will remain on the site.

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Since that time, the project has been redesigned, and an amendment to the permits is required. The proposed project would allow demolition of the remaining commercial buildings and construction of 74,870 square feet of retail in six buildings and in two phases as previously approved.

## **DISCUSSION**

### **Project Description:**

The proposed amendments to the project include a reduction in building area of the commercial development, and substitution of two small tuck-under parking areas plus surface parking in lieu of the two-level parking garage. There will be traffic access from Clairemont Drive, Denver Street, Ingulf Street and Morena Boulevard, and there will continue to be pedestrian access from each of those streets. The proposed project will be pedestrian oriented and amenable to the future anticipated trolley stop across Morena Boulevard. The resulting project will include the following:

The project proposes six buildings in Phase 1, labeled as Retail 1, Retail 2, Retail 3, Retail 4, Retail 5 and Office, plus Retail 6 in Phase 2. Retail 1, 2, and 3 are immediately adjacent with common walls between them and in the same general location as the Major Retail Building of the previously approved project. See drawings, SA-1 and SA-2 (Attachment 5). Therefore, the general location and number of buildings is substantially the same as the approved project.

Phase 2 is substantially the same as the previously approved project but in a different location. In the previously approved project, Phase 2 is in the northeast corner due to leaseholds which made the location unavailable for construction on the same timetable as Phase 1. That lease is no longer a factor, and the building now intended for that northeast corner will be part of the First Phase. The Phase 2 for the proposed project will be located on the west side, along Morena Boulevard. A detail of the location and size is shown on Drawing SA-1 (Attachment 5). This location will allow the actual construction of Phase 2 to occur subsequent to completion of the intended future trolley stop contemplated by the City to be located across Morena Boulevard from the project site.

The modifications proposed in this amendment include a total of 74,870 square feet of retail, restaurant (including the outdoor dining deck which adjoins Retail 5) and office development in two phases (66,470 in Phase 1, and 8,400 in Phase 2), plus the surface parking area including the tuck-under parking beneath Retail 4 in the northwest corner and Office building in the northeast corner. The total building area in the proposed project represents a reduction of 13.7 percent from the approved project.

Community Plan Analysis: The subject property is designated as General Commercial in the Clairemont Mesa community Plan, and the proposed project conforms to the identified use. The community plan contains a number of specific recommendations for the property to be implemented through the application of the Community Plan Implementation Overlay Zone.

These recommendations include development of quality retail and professional uses, architecture which relates to the surrounding neighborhood and the future trolley station to the west across Morena Boulevard, enhanced pedestrian linkages within and to the site, and improved landscaping.

The subject property is located within the Community Plan Implementation Overlay Zone (CPIOZ – Type ‘B’) for Clairemont Mesa, adopted by the City Council in 1997. The purpose and intent of this Overlay Zone is to provide development regulations tailored to specific sites within community plan areas of the City. The intent is to ensure that development proposals are consistent with the use and development criteria adopted for specific sites.

The Clairemont Mesa Community Plan recommendations for West Clairemont Plaza (the subject property) include that any redevelopment of the site is compatible with adjacent residential development; supports use of the future Mid-Coast transit line; enhances the community image; and offers commercial services that are walkable to the surrounding community. The recommendations further state that the site should be developed with a first class retail and professional center. The existing center is characterized by older structures, underutilized parking areas, poor landscaping, and a lack of walkways to and from residential neighborhoods and throughout the site, and also that transit services are poorly integrated into the site. The recommendations include criteria related to use, architecture and site design, and future transportation improvements.

The property is located within a potential Neighborhood Village Center, as identified in the Strategic Framework Action Plan, and is subject to the Transit Oriented Development Design Guidelines. Similar to the cited recommendations of the Clairemont Mesa Community Plan, both the Strategic Framework Element and Transit Oriented Development Design Guidelines recommend development which relates to transit facilities and incorporates enhanced pedestrian amenities. The proposed project implements the recommendations for “village-type” development by creating a commercial hub which serves the surrounding residential areas, as well as establishing a pedestrian-oriented link between these residential areas and the future trolley station.

30 foot height and setback deviations: The previously approved project included four deviations from the 30-foot height limit. The specific locations were at (i) the southwest corner of the Major Retail Building (along Ingulf), (ii) the southeast corner of Building Three (adjacent to (i), and also along Ingulf), (iii) Building Two (at the corner of Ingulf and Morena), and (iv) Building One is in the northwest corner. These deviations comprise 6.4 percent of the total roof area of the approved project.

The project site is located within the Clairemont Mesa Height Limit Overlay Zone. The regulations of this Overlay Zone are included in Land Development Code (LDC) Sections 132.1301 through 132.1306 and restrict the height of proposed development to a maximum of 30-feet. The purpose and intent of the Overlay Zone is to provide supplemental height regulations for western Clairemont Mesa, ensure the existing low profile development in

Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected. The LDC allows for considerations of exceptions to this height limit through a Site Development Permit (SDP), decision Process 5. The Roof Plan (Sheet SA-3, Attachment 5) and Elevation Plans (Sheets A-1 through A-5, Attachments 5) indicate that portions of the rooflines of the proposed buildings will exceed 30-feet in height in several locations. Staff review has determined these limited exceptions will not have a significant effect on the overall height of the development, will maintain the general low profile of development in the area, and will not have an adverse impact on public views of Mission Bay or the Pacific Ocean. Therefore, staff can support these limited exceptions. Draft findings are included as Attachment 8.

A Planned Development Permit (PDP), decision Process 3, is required to accommodate proposed deviations to an established 20-foot setback which was imposed on the entire 5.43-acre site with recordation of the original subdivision map, West Clairemont Plaza Unit No. 1 Map No. 3780 in 1958. This setback requires structures to observe a minimum 20-foot setback from the adjacent property line. Proposed site development includes structures which observe reduced setbacks, less than 20-feet. The site is currently zoned CC-1-3 which has no required front or street side setback and would otherwise allow development of structures located at the property line. Staff review has determined the proposed setback deviations are consistent with the purpose and intent of the PDP regulations to provide greater flexibility for a project, and comply with current development regulations of the applicable zone. Therefore, staff can support these limited deviations. Draft findings are included as Attachment 8.

As provided by LDC Section 112.0103, processing of these Permits is being consolidated under decision Process 5, for recommendation by the Planning Commission and decision by the City Council.

Parking: The previously approved project required a total of 465 parking spaces for Phase 1, being increased to 496 with Phase 2.

The proposed project's phase one consists of a maximum of 14,400 square feet of office, 49,100 square feet of retail (including a market with a maximum square footage of 14,000 square feet and a drug store with a maximum 15,000 square feet), and a 3,000 square foot restaurant. Therefore, 362 off-street automobile, 4 carpool, 10 accessible including 2 van accessible, 2 loading spaces, 7 bicycle spaces with racks, and 7 motorcycle parking spaces are required and shall be provided for Phase one.

Phase two consists of a retail building with a maximum of 8,400 square feet, A minimum of 398 off-street automobile, 7 carpool, 10 accessible including 2 van accessible, 2 loading spaces, 7 bicycle spaces with racks, and 8 motorcycle parking spaces are required and shall be provided in Phase two.

Access: The entrances to parking will continue to be from Clairemont Drive, Denver Street, Ingulf Street and Morena Boulevard. See Site Plan Drawing SA-2 (Attachment 5). Access to the tuck-under parking beneath Retail 4 will be from Morena Boulevard. Access to the tuck under

parking under Office will be from the surface parking area. Access to the surface parking area will be from Clairemont Drive in the same location as the previously approved project, from Denver Street in the same location as the approved project, and from the westerly end of Ingulf Street in approximately the same location as the approved project. There will be one additional access for parking and service access from Ingulf Street to the east and directly south of Retail 3, in the general location of an existing curb cut.

Traffic: The traffic impacts of the proposed project are projected to be slightly less than the anticipated impacts of the previously approved project. An update to the traffic analysis prepared by Urban Systems Associates compares the proposed project to the previously approved project in terms of trip generation tables, and driveway trip comparisons for AM and PM peak hours, and shows that all component trips are less than those for the previously approved project.

Pedestrian orientation: As shown on the Pedestrian Path Plan, drawing SA-4 (Attachment 5), the access for pedestrians and the convenience for pedestrians to walk within the proposed project are consistent with the pedestrian orientation features of the previously approved project. The project continues to have access from Morena Boulevard both by stairs and ramps. The shops within Phase 2 will add to the pedestrian appeal from Morena Boulevard and the trolley stop. This will make the proposed project convenient to users of the future trolley stop intended by the City to be located across Morena Boulevard from the project site, making the project consistent with the Transit Oriented Development guidelines.

There are several plaza locations for the convenience of pedestrians in the proposed project, as noted on Drawing SA-4 (Attachment 5). These plazas are in approximate locations of the previously approved project, allowing for the differences necessitated by the elimination of the parking structure.

Landscaping: Since the parking structure is eliminated, a number of the trees which were proposed to be in planters will now be in actual earth soil in the proposed project. This will be an improvement, in that they are likely to be able to grow to greater size at maturity. There is no reduction in the amount of planting in the interior of the proposed project, and there is no significant change in the perimeter plantings. See Drawing L-1 (Attachment 5).

Sewer line: The existing sewer line within the project site roughly parallel to Ingulf Street would have been beneath the Major Retail Building, and therefore, it was shown on the Tentative Map to be relocated to Ingulf Street Right-of-Way. The location of this existing sewer line would not be under any of the proposed buildings, but would be under the vehicular driveway between the Ingulf wall/terrace and the retail buildings (1, 2, and 3). Therefore, the applicant proposes to keep the sewer line in its current location and there are no changes proposed. The sewer line is shown on Drawing SA-1 (Attachment 5).

Tentative Map: The approved project included a two lot Tentative Map (TM # 179620). The proposed project will subdivide the site into four (4) parcels for commercial development. Modifications have been made to adapt the Tentative Map to the proposed building/parking lot layout as shown on Drawings C-5,6,7 (Attachment 5).

**Conclusion:**


Staff has reviewed the proposed changes to the previously approved project and supports the new proposed project. Therefore, staff recommends that the Planning Commission recommend to the City Council approval of Site Development Permit No. 525777, Planned Development Permit No. 525776 and Tentative Map No. 525789.

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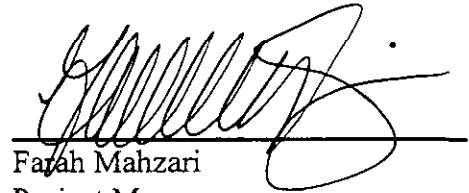
**ALTERNATIVES**

1. Recommend that the City Council approve the project, with modifications.
2. Recommend that the City Council deny the project.

Respectfully submitted,



Mike Westlake  
Program Manager  
Development Services Department



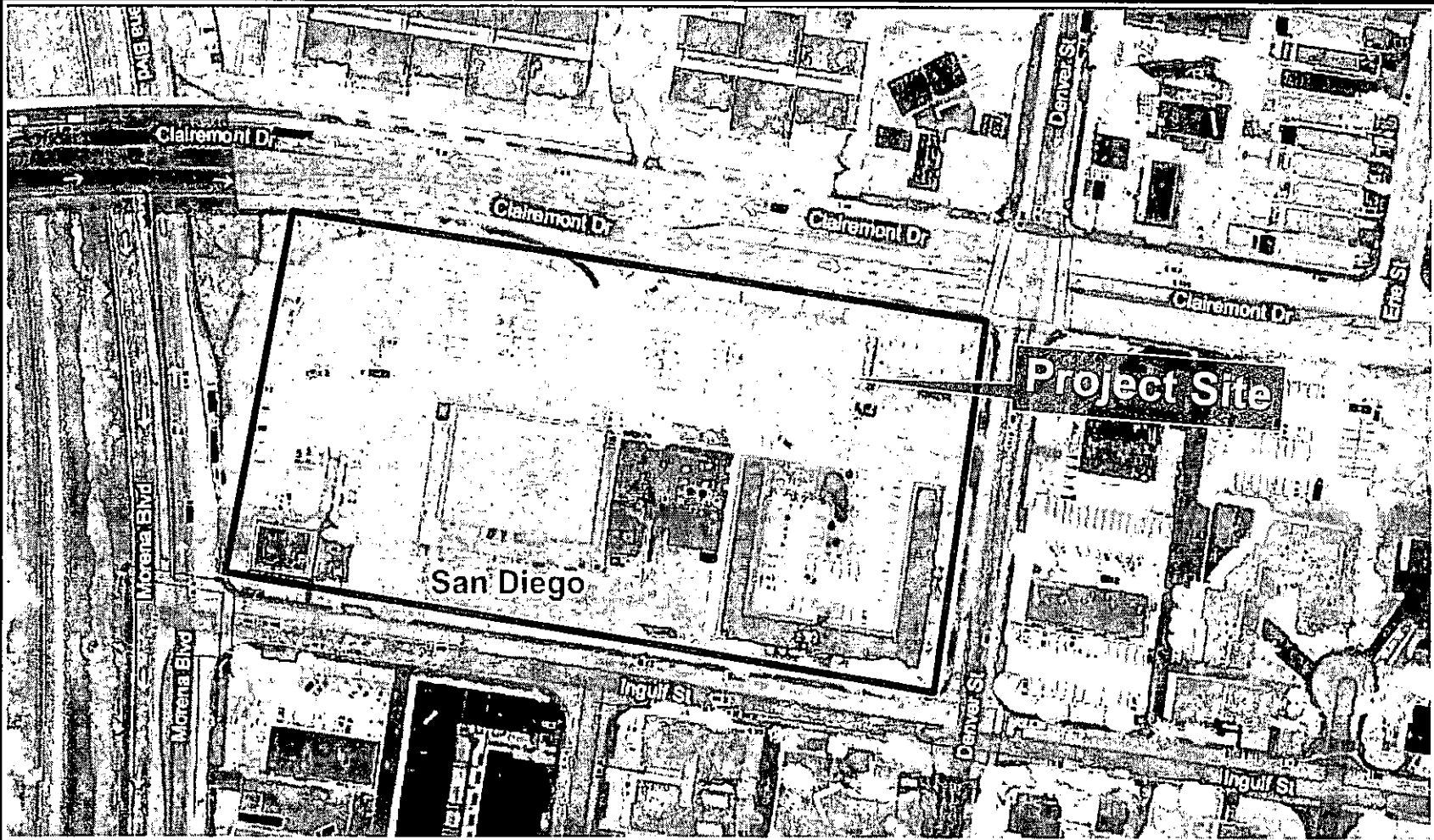
Farah Mahzari  
Project Manager  
Development Services Department

BROUGHTON/FZM

**Attachments:**

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Plans
6. Draft Map Conditions and Subdivision Resolution
7. Draft Permit with Conditions
8. Draft Resolution with Findings
9. Copy of Recorded Permit
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Project Chronology

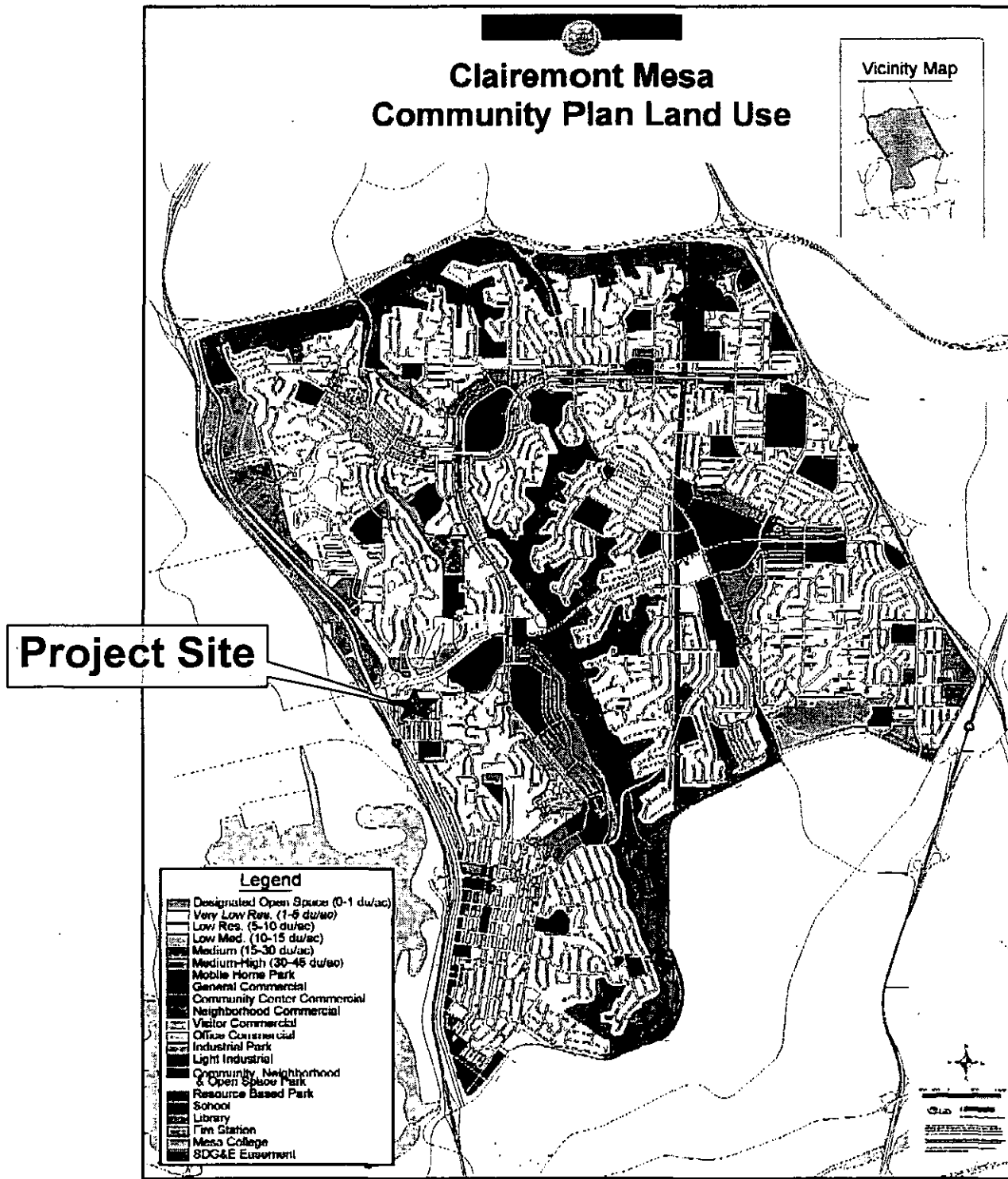




## Aerial Photo

BAY VIEW PLAZA – 2575 CLAIREMONT DRIVE  
PROJECT NUMBER 149101



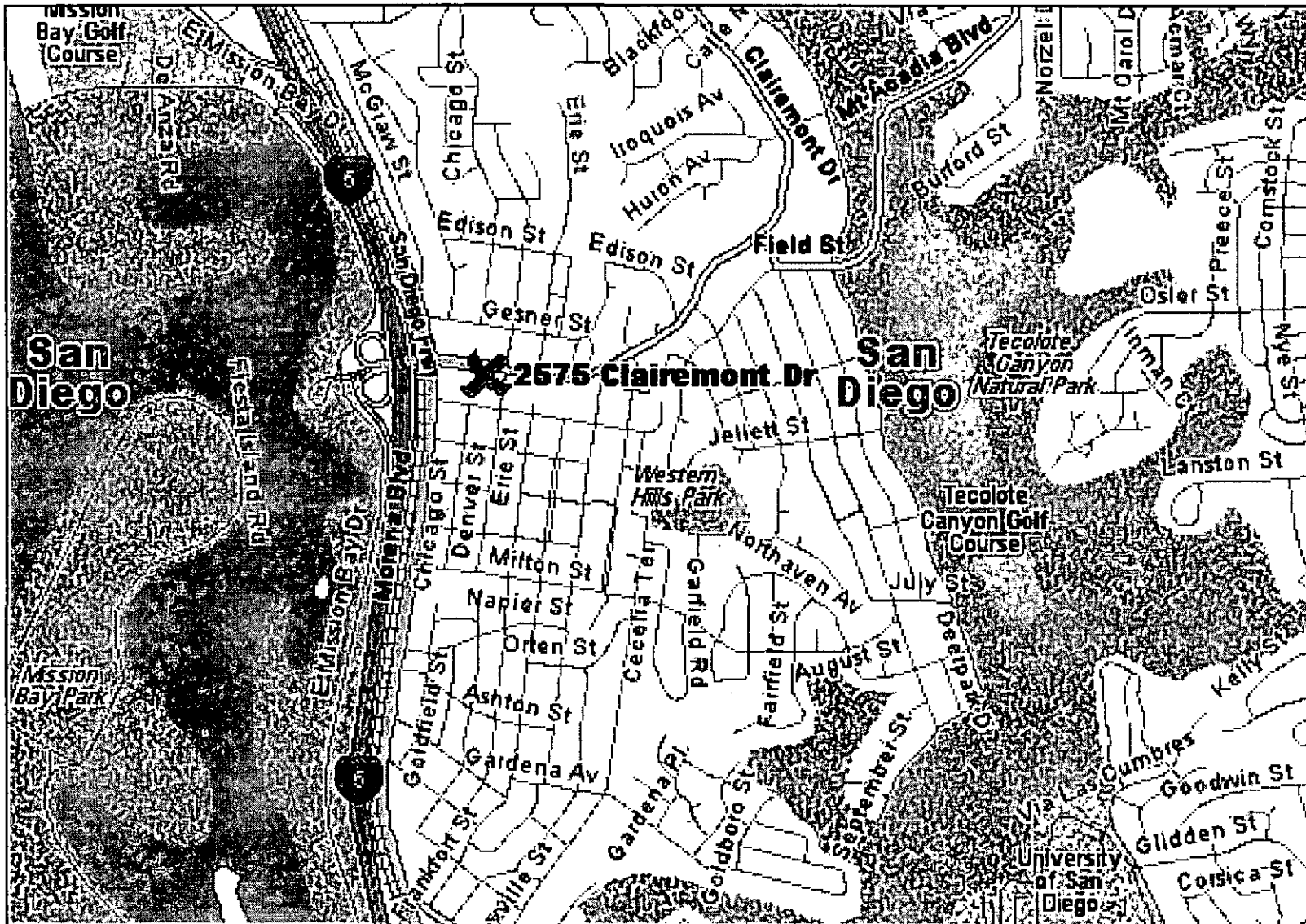


## Community Plan Land Use Map

BAY VIEW PLAZA – 2575 CLAIREMONT DRIVE

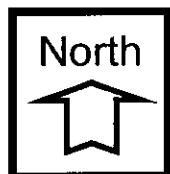
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## Project Location Map

BAY VIEW PLAZA – 2575 CLAIREMONT DRIVE  
PROJECT NUMBER 149101



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**PROJECT DATA SHEET**

<b>PROJECT NAME:</b>	Bay View Plaza	
<b>PROJECT DESCRIPTION:</b>	Redevelopment of a 4.43-acre portion of a 5.43-acre site with multi-level commercial office and retail structures, associated off-street parking, landscaping and signage	
<b>COMMUNITY PLAN AREA:</b>	Clairemont Mesa	
<b>DISCRETIONARY ACTIONS:</b>	Site and Planned Development Permits and Tentative Map	
<b>COMMUNITY PLAN LAND USE DESIGNATION:</b>	CC-1-3 Community-Commercial	
<p align="center"><b><u>ZONING INFORMATION:</u></b></p> <p align="center"><b>ZONE:</b> CC-1-3 (A Commercial-Community zone that permits one dwelling unit for each 1,500 square-feet of lot area)</p> <p align="center"><b>HEIGHT LIMIT:</b> 30-ft (Clairemont Mesa 30-ft Height Limitation Overlay Zone); 45-ft outside of the Overlay Zone</p> <p align="center"><b>LOT SIZE:</b> 5,000 sq. ft. minimum; no maximum</p> <p align="center"><b>FLOOR AREA RATIO:</b> 0.75 maximum</p> <p align="center"><b>FRONT SETBACK:</b> none</p> <p align="center"><b>SIDE SETBACK:</b> 10-ft minimum; 0-ft optional</p> <p align="center"><b>STREETSIDE SETBACK:</b> none</p> <p align="center"><b>REAR SETBACK:</b> 10-minimum; 0-ft optional</p> <p align="center"><b>PARKING:</b> 362 (phase 1) and 398 (phase 2)</p>		
<b><u>ADJACENT PROPERTIES:</u></b>	<b>LAND USE DESIGNATION &amp; ZONE</b>	<b>EXISTING LAND USE</b>
<b>NORTH:</b>	Multi-Family Residential; RM-3-7	Apartment Complex
<b>SOUTH:</b>	Multi-Family Residential; RM-3-7	Apartment Complex
<b>EAST:</b>	Commercial-Community; CC-1-3	Commercial; Offices
<b>WEST:</b>	Single-Family Residential; RS-1-7	Freeway; Public Park
<b>DEVIATIONS OR VARIANCES REQUESTED:</b>	Deviations to allow structures to exceed the Clairemont Mesa 30-foot Height Limitation Overlay Zone	
<b>CPG RECOMMENDATION:</b>	Clairemont Mesa Community Planning Group voted 11-0 to Approve the project on March 18, 2008.	

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## PROJECT INFORMATION

ATTACHMENT 5

As the authors have stated, the authors have not conducted a systematic review of the literature, and the authors have not conducted a systematic review of the literature, and the authors have not conducted a systematic review of the literature.

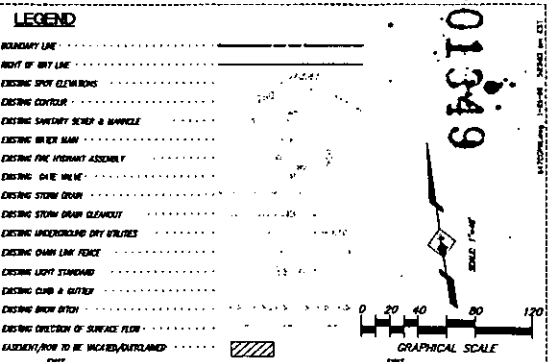
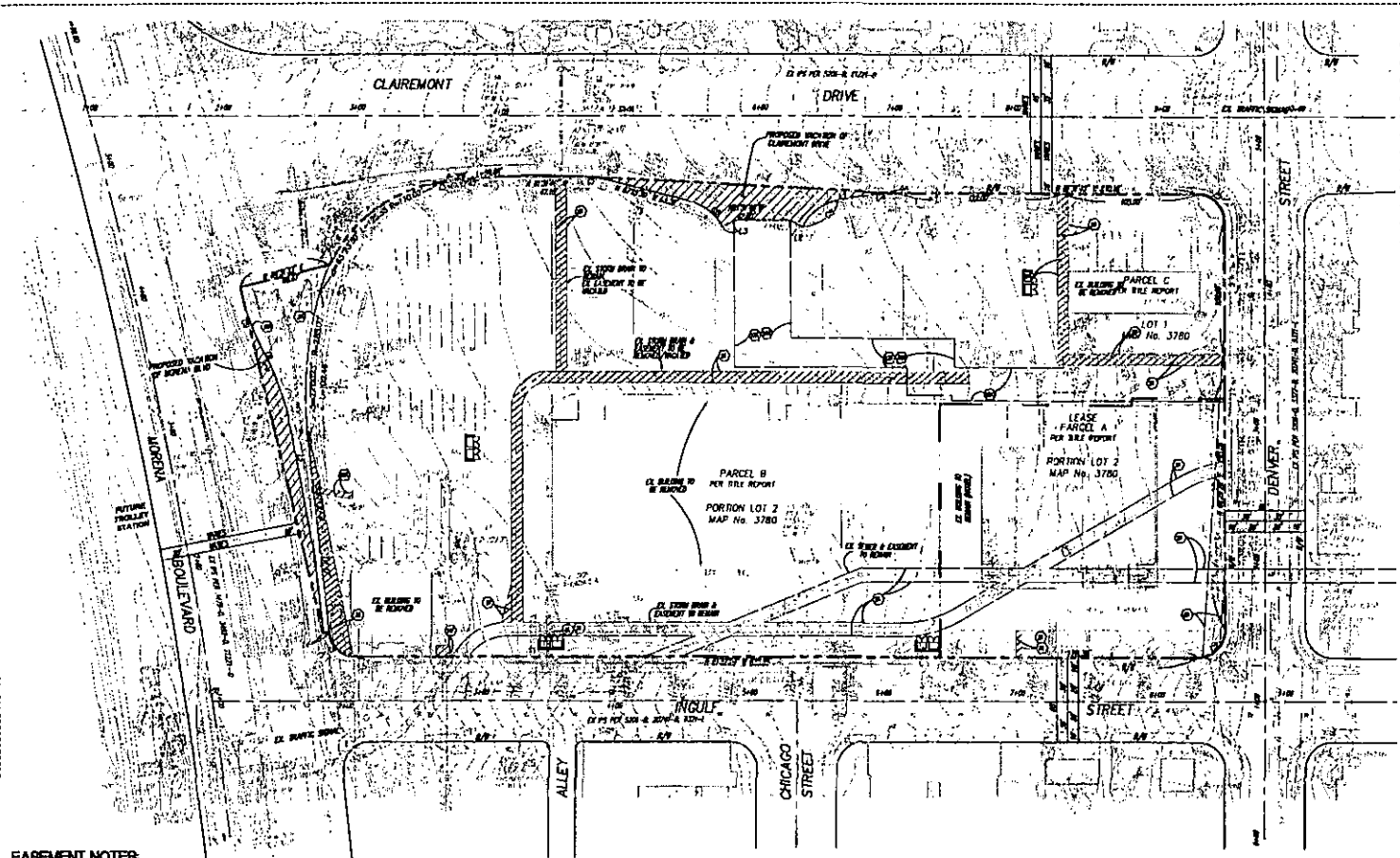
4180 LA JOLLA VILLAGE DRIVE, SUITE 400  
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FAX: (858) 625-8119

THE FOLLOWING INFORMATION IS FOR INFORMATIONAL PURPOSES ONLY. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE INFORMATION IS NOT TO BE USED FOR ANY OTHER PURPOSE.

1. *Abstracts of the 1998 Annual Meeting of the American Society of Human Genetics, 1998, Denver, Colorado, October 1-5.*  
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**NADEL  
RETAIL  
T-1**

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**EASEMENT NOTES:**

- (A) AN EASEMENT FOR PAZES, WAYS AND INCIDENTAL PURPOSES, RECORDED DECEMBER 15, 1957 IN BOOK 1074, PAGE 579 OF OFFICIAL RECORDS. (TO BE OUTLINED)
- (B) AN EASEMENT FOR PAZES, WAYS AND INCIDENTAL PURPOSES, RECORDED DECEMBER 15, 1957 IN BOOK 1074, PAGE 579 OF OFFICIAL RECORDS. (TO BE OUTLINED)
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**EASEMENT NOTES CONT.**

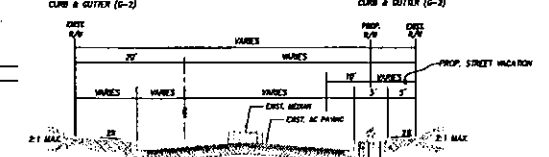
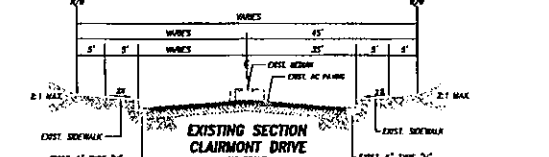
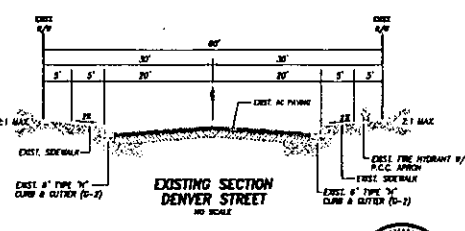
- (AA) AN EASEMENT FOR PUBLIC UTILITIES, RECORDED JUNE 20, 1963 AS FILE NO. 119400 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AB) AN EASEMENT FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRICITY, RECORDED FEBRUARY 15, 1970 AS FILE NO. 74-0001 OF OFFICIAL RECORDS. (TO BE OUTLINED)
- (AC) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
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- (AH) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AI) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AJ) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AK) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AL) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AM) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AN) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
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- (AP) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AQ) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AR) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AS) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AT) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AU) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- (AV) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)
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- (AZ) AN EASEMENT FOR ACCESS, EGRESS AND INCIDENTAL PURPOSES, RECORDED MAY 15, 1963 AS FILE NO. 62-15001 OF OFFICIAL RECORDS. (TO BE ABANDONED)

**CURVE DATA TABLE**

NO.	BEARING	LENGTH
1	S 89° 12' 00" E	20.00'
2	S 89° 12' 00" E	20.00'
3	S 89° 12' 00" E	20.00'
4	S 89° 12' 00" E	20.00'
5	S 89° 12' 00" E	20.00'
6	S 89° 12' 00" E	20.00'
7	S 89° 12' 00" E	20.00'
8	S 89° 12' 00" E	20.00'
9	S 89° 12' 00" E	20.00'
10	S 89° 12' 00" E	20.00'
11	S 89° 12' 00" E	20.00'
12	S 89° 12' 00" E	20.00'
13	S 89° 12' 00" E	20.00'
14	S 89° 12' 00" E	20.00'
15	S 89° 12' 00" E	20.00'
16	S 89° 12' 00" E	20.00'
17	S 89° 12' 00" E	20.00'
18	S 89° 12' 00" E	20.00'
19	S 89° 12' 00" E	20.00'
20	S 89° 12' 00" E	20.00'

**LINE DATA TABLE**

NO.	BEARING	LENGTH
1	S 89° 12' 00" E	20.00'
2	S 89° 12' 00" E	20.00'
3	S 89° 12' 00" E	20.00'
4	S 89° 12' 00" E	20.00'
5	S 89° 12' 00" E	20.00'
6	S 89° 12' 00" E	20.00'
7	S 89° 12' 00" E	20.00'
8	S 89° 12' 00" E	20.00'
9	S 89° 12' 00" E	20.00'
10	S 89° 12' 00" E	20.00'
11	S 89° 12' 00" E	20.00'
12	S 89° 12' 00" E	20.00'
13	S 89° 12' 00" E	20.00'
14	S 89° 12' 00" E	20.00'
15	S 89° 12' 00" E	20.00'
16	S 89° 12' 00" E	20.00'
17	S 89° 12' 00" E	20.00'
18	S 89° 12' 00" E	20.00'
19	S 89° 12' 00" E	20.00'
20	S 89° 12' 00" E	20.00'



**PARTNERS**  
Planning and Engineering  
15938 Bernardo Center Dr.  
San Diego, CA 92127  
Phone: (619) 376-3444  
Fax: (619) 376-3555

Vicinity Map  
Not to Scale

BAY VIEW PLAZA

EXISTING TOPOGRAPHY

Information Center

Mountain Bay

Clayton Drive

PROJECT SITE

North

Bay View Plaza

Bay View Plaza

Bay View Plaza

Bay View Plaza

Bay View Plaza

Bay View Plaza

**EXISTING TOPOGRAPHY**

BAY VIEW PLAZA  
SAN DIEGO, CALIFORNIA

**C.W. Clark, Inc.**  
COMMERCIAL REAL ESTATE DEVELOPERS

4100 LA JOLLA VILLAGE DRIVE, SUITE 405  
LA JOLLA, CA 92037  
TEL: (619) 452-7170  
FAX: (619) 452-7119

DATE: JANUARY 9, 2008  
DRAWN: NADL JOB# 04299.00  
PPE JOB# 847.00

625 BROADWAY SUITE 1025  
SAN DIEGO, CA 92101  
TEL: (619) 232-8424 FAX: (619) 232-7178  
WWW.NADELARCH.COM

**Nadel**  
Architects In

ATTACHMENT 5









**1. PRESENCE OF ACCESS**  
 Provide a Two-Way Partial Stop permit for a Commercial site  
 also associated support facilities

**2. STREET ADDRESS**  
2500-2501 CLARENCE ST. NW  
 (Actual use) ☐ 100 ☐ 0 ☐ ☐  
 Between NORTH ST and POWELL STREET

**3. SITE AREA**  
 Total Site Area (gross) 6,624 Ac. 753,166 Sq. Ft.  
 Net Site Area 6,624 Ac. 753,166 Sq. Ft.  
 (Net site area includes proposed streets and public dedications)  
 (Site covered by proposed development lots)

**4. COVERAGE (A/F)**  
 Total Building Area (ground floor) 1,182 Ac. 137,802 Sq. Ft.  
 Total Landscaping/Open Space Area 0.263 Ac. 1,133 Sq. Ft.  
 Total Hardscape/Paved Area 2.227 Ac. 100,267 Sq. Ft.  
 Floor Area Ratio (FAR) 0.24  
 Gross Floor Area (GFA) 156,720 Sq. Ft.

**5. ACCESS (Driveways)**  
 Maximum no. of driveway units allowed per lot: 2/2  
 Number of existing units to remain in use: 2/2  
 Number of proposed driveway units on site: 2/2  
 Total number of units provided on the site: 2/2

**6. TRAIL/STAIRWAY**  
 Total Trail: Required 0-250' Ft. Proposed 0-250' Ft.  
 Street Side Trail: Required - Ft. Proposed - Ft.  
 Interior Trail(s): Required - Ft. Proposed - Ft.  
 Near Trail: Required - Ft. Proposed - Ft.  
 \* - 100' for 75% of property if no remainder.

**7. LOT SUBMITTY**  
 Commercial/Residential  
 Existing Number of Lots = 2 Proposed Number of Lots = 1

**8. PARKING**  
 Parking Criteria: ☐ Residential  
☐ Commercial  
 (Actual use) ☐ Industrial  
☐ Mixed Use  
☐ Other Hotel  
 Total number of spaces required by zone 228 spaces  
 Total number of spaces provided on-site 228

**9. EXISTING USE**  
 Actual use:  
 PROPOSED USE:  
 Hotel/Residential/Commercial

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO, AND IS DESCRIBED AS FOLLOWS:

[illegible]

LOT 2 OF WEST CLAREMONT PLAZA, UNIT #4, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF No. 5704, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JANUARY 15, 1958.

TOGETHER WITH THAT PORTION OF MICHIGAN BOULEVARD ABUTTING SAID LOT 2, WACATED AND CLOSED TO PUBLIC USE BY RESOLUTION No. 197796, RECORDED JUNE 20, 1969 AS FILE NO. 115490 OF OFFICIAL RECORDS.

EXCEPT THEREON THE FOLLOWING DESCRIBED LAND:

[illegible]

LOT 1 OF WEST CLAREMONT PLAZA UNIT NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP INCORP. NO. 37061, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JANUARY 15, 1988.

ORIGIN NUMBER OF REPORT

AN EXAMINER FOR POLICE, BUREAU AND INCIDENT PURPOSES, RETROACTED OCTOBER 18, 1957 IN BOOK PAGE, PAGE 259 OF OFFICIAL RECORDS. (TO BE OBTAINED)

AN EXAMINER FOR POLICE, BUREAU AND INCIDENT PURPOSES, RETROACTED OCTOBER 18, 1957 IN BOOK PAGE, PAGE 261 OF OFFICIAL RECORDS. (PORTFOLIO TO BE OBTAINED)

AN EXAMINER FOR SEED, SOIL, FERTILIZER & PUBLIC UTILITIES AS SHOWN OR INDICATED BY MAP NO. 1294. (PORTFOLIO TO BE OBTAINED)

PRINCIPALS OF THE OCCURRENCE STATEMENT ON MAP NO. 1293 SHOWS NEARLY IDENTICAL EXPANSION OF INCIDENT AND EFFECTS IN CLARITY WITHIN THE TOWN OF INDIAN, EXCEPT FOR THE GENERAL PUBLIC POLICE TO INQUIRE THE SAME. (NO RECORDS)

AN EXAMINER FOR COMMUNICATIONS STRUCTURES, RETROACTED MAY 18, 1958 IN BOOK PAGE 140 OF OFFICIAL RECORDS. (PORTFOLIO TO BE OBTAINED)

(84) AN CASSETT FOR PAULI, HINES AND INCIDENTAL, PUMPHREY, RECORDED AUGUST 18, 1983 AS FILE #26, 393 OF OFFICIAL RECORDS. (TO BE AMENDED)

(85) AN CASSETT FOR A STEAM DRIVEN BOILER AND APPURTENANCES, RECORDED BY INCIDENTAL, PUMPHREY, DECEMBER 11, 1983 AS FILE #1, 393 OF OFFICIAL RECORDS. (TO BE AMENDED)

(86) AN CASSETT FOR PAULI AND ANCHORS, RECORDED DECEMBER 18, 1983 IN BOOK #26, 393 OF OFFICIAL RECORDS. (TO BE OILCAMELANS)

(87) AN CASSETT FOR PAULI, HINES AND INCIDENTAL, PUMPHREY, RECORDED MARCH 14, 1983 AS FILE #4, 649 OF OFFICIAL RECORDS. (TO BE OILCAMELANS)

(88) AN CASSETT FOR PUBLIC UTILITIES, RECORDED APR 26, 1983 AS FILE #4, 1549 OF OFFICIAL RECORDS. (TO BE AMENDED)

(89) AN CASSETT FOR THE BRANCHING AND DISBURSMENT OF ELECTRICITY, RECORDED FEBRUARY 1, 1979 AS FILE #4, 1603 OF OFFICIAL RECORDS. (TO BE RECLASSIFIED)

[illegible]

NETER AMOUNT OF 3/16 IN. OR GREATER 4.634 ACRES  
 PERCENT OF TOTAL 3/16 OR GREATER 100%  
 AMOUNT OF 3/16 WITH 50 PERCENT INCLINAL SLOPES OR GREATER 0 ACRES  
 PERCENT OF TOTAL 3/16 WITH 50 PERCENT INCLINAL SLOPES OR GREATER 0%  
 AMOUNT OF 3/16 WITH HILLSIDE BENEATH 6.6 ACRES  
 PERCENT OF 3/16 WITH HILLSIDE BENEATH 100%  
 AMOUNT OF 1/2 IN. 0.030 CLIMATIC TONES  
 AMOUNT OF UNDERSTORY 1.470 CLIMATIC TONES  
 AMOUNT OF FILL 0.120 CLIMATIC TONES  
 MAXIMUM HEIGHT OF FILL SLOPES 6 FEET 2:1 SLOPE RATIO  
 MAXIMUM HEIGHT OF CUT SLOPES 3 FEET 2:1 SLOPE RATIO  
 AMOUNT OF EXPOSED ROCK 0 CLIMATIC TONES  
 RETAINING WALL BILLS NOW MANY 5  
 MAXIMUM LENGTH 600 FEET

LOT 1 OF WEST CLAREMONT PLAZA UNIT NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP INCORP. NO. 37061, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JANUARY 15, 1988.

CD-1-J OFFICE B AND CLAREMONT DESIG  
30-FOOT HEIGHT LIMIT OVERLAY ZONE  
**APN**  
PARCEL A: 430-830-30  
PARCEL B: 430-830-31

THERE WILL BE AN AGREEMENT REACHED BETWEEN THE PROPOSED LOTS TO ADDRESS PARKING, ACCESS, STORM WATER, FIRE SERVICE AND EVACUATION SYSTEMS.

OTY 892 RE CIB-4, K171-0 AND  
RE MAP RE 1702

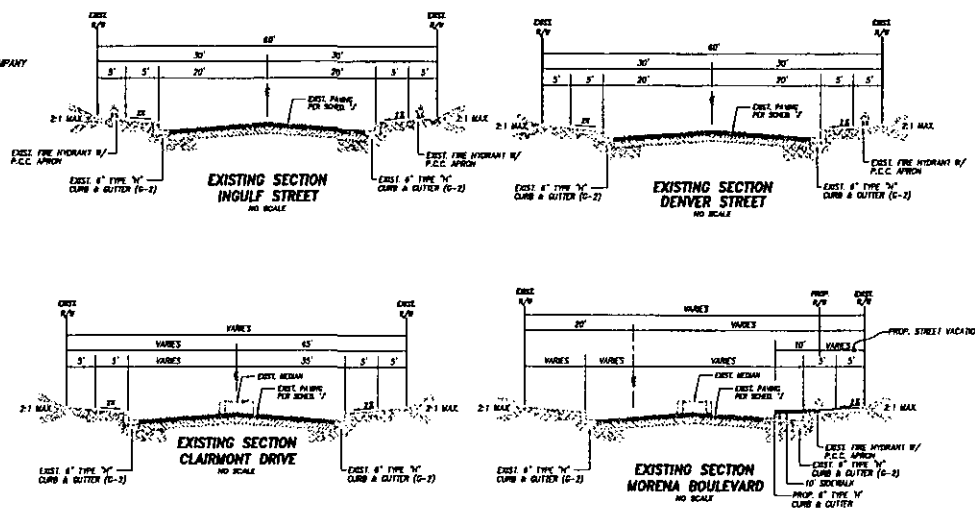
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FD-302a (Rev. 10-6-95)

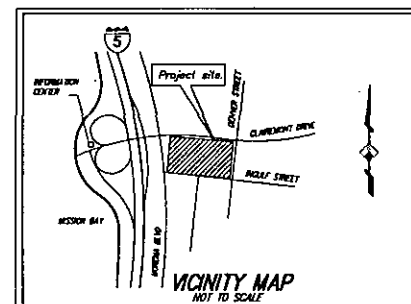
THE SOUTHEAST BRISTL PLUG AT INTERSECTION OF WOODH-  
BOLLEWARD AND HENRY STREET ACCORDING TO THE CITY OF SAN  
JOSE REGIONAL CENTER DATA  
ELEVATION: 24.578 (81.786 MSL)

AERIAL SURVEY PREPARED BY SAM-10 AERIAL SURVEYS, DATED  
JUNE 30, 1989; TOGETHER WITH DATA FROM RECORD CITY OF SAN  
ANTONIO, TEXAS 5720-0 AND 50741-0

BURGENDER-CLARK, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY  
4180 LA JOLLA VILLAGE DRIVE, SUITE 403  
SAN DIEGO, CA 92037



601352



PREPARED BY: PATRICIA PLUMBING AND EXCAVATING

NAME: ADDRESS: 15016 ADVANCEMENT CENTER DRIVE

SAN PETER, CA 92177

PHONE: (714) 378-3444 FAX: (714) 378-3533

REVISION 12: \_\_\_\_\_

REVISION 11: \_\_\_\_\_

REVISION 10: \_\_\_\_\_

REVISION 9: \_\_\_\_\_

REVISION 8: \_\_\_\_\_

REVISION 7: \_\_\_\_\_

REVISION 6: \_\_\_\_\_

REVISION 5: \_\_\_\_\_

REVISION 4: \_\_\_\_\_

REVISION 3: \_\_\_\_\_

REVISION 2: \_\_\_\_\_

REVISION 1: \_\_\_\_\_

PROJECT ADDRESS: \_\_\_\_\_

2201-2201 CLAYMOUNT DRIVE

PROJECT NAME: \_\_\_\_\_

801 NEW PLACE

ORIGINAL DATE: 05/24/88

SHEET 1 OF 3

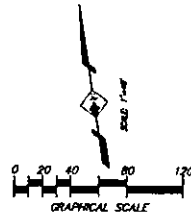
DRAWN BY: \_\_\_\_\_

CHECKED BY: \_\_\_\_\_

DATE: \_\_\_\_\_

PROJECT TITLE: TENTATIVE PARCEL MAP

## 001353



Sta.	BEARING	LENGTH
1.1	N 87°30'30" E	94.45'
1.2	S 52°34'30" (78)	10.00'
1.3	N 87°30'30" E	10.00'
1.4	N 87°30'30" W	4.00'
1.5	N 87°30'30" W	87.9'

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INTERNAL SECURITY - R

ATTACHMENT:-

# TENTATIVE MAP EXHIBIT NO. 359880 PROJECT NO. 94971

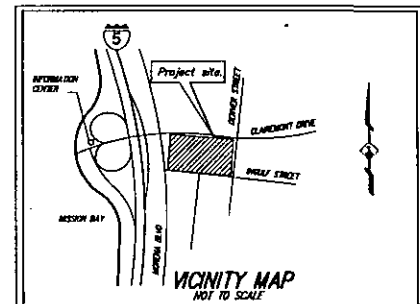
## LEGEND

BOUNDARY LINE	
RIGHT OF WAY LINE	
EXISTING SPOT ELEVATIONS	
EXISTING CENTER	
EXISTING SANITARY SEWER & MANHOLE	
EXISTING STREET MAIN	
EXISTING FIRE HYDRANT ASSEMBLY	
EXISTING GATE VALVE	
EXISTING STORM DRAIN	
EXISTING STORM DRAIN CLEANSUIT	
EXISTING UNDERGROUND DRY UTILITIES	
EXISTING CHAIN LINK FENCE	
EXISTING LIGHT STANDARDS	
EXISTING CLAMP & BUTTER	
EXISTING BRICK BITCH	
EXISTING DIRECTION OF SURFACE FLOW	
STREET WIDENING	
STORM DRAIN ABANDONMENT	
SOCIAL OUTLAIN	
CITY OF SAN DIEGO GENERAL UTILITY ABANDONMENT	

**PARTNERS**  
Planning and Engineering  
15918 Bernardo Center Dr.  
San Diego, CA 92127  
Phone: (619) 376-3444  
Fax: (619) 376-3555



REGISTERED CIVIL ENGINEER  
BY EXPIRATION DATE 12-31-99

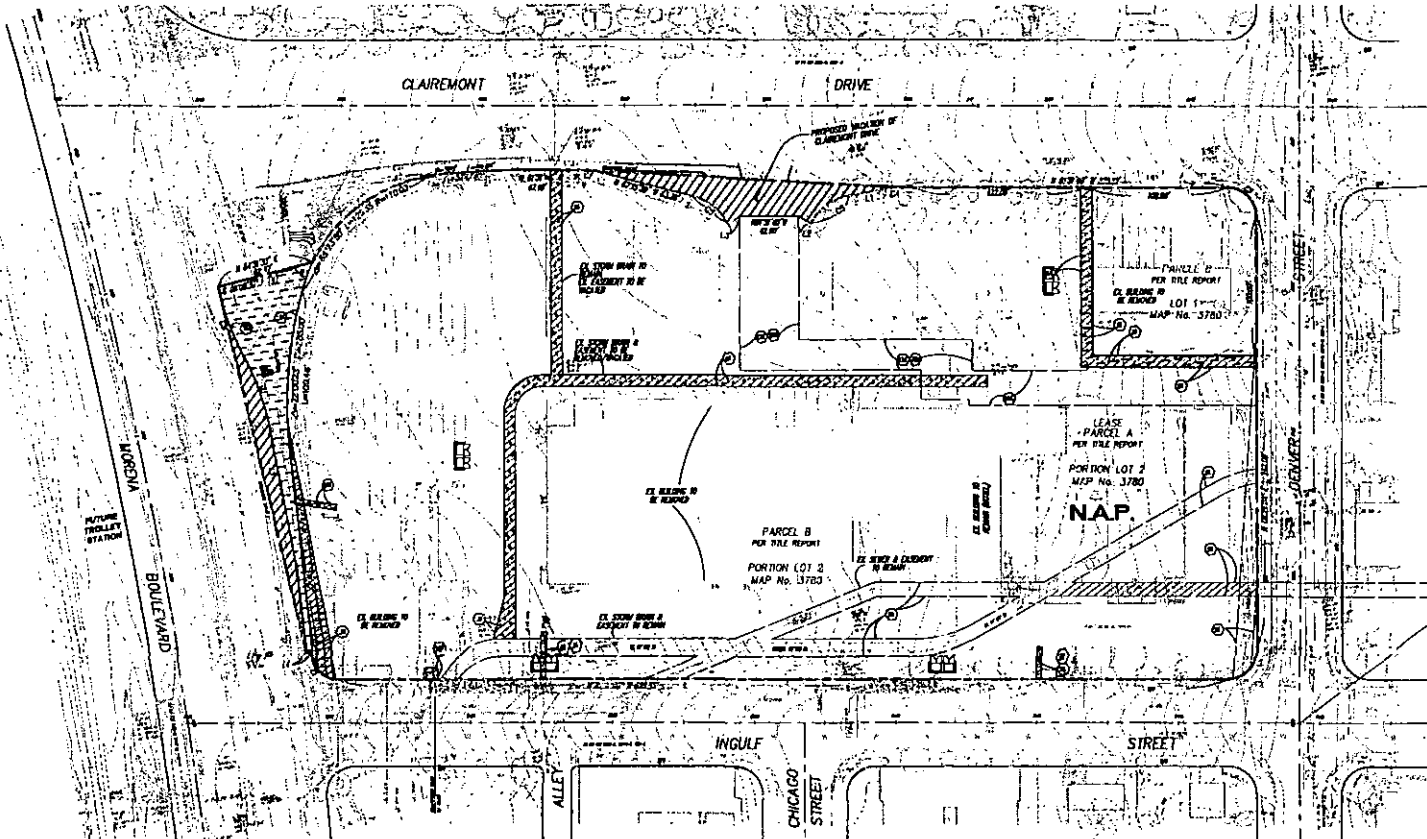


VICINITY MAP  
NO SCALE

PREPARED BY:  
NAME: PARTNERS PLANNING AND ENGINEERING  
ADDRESS: 15918 BERNARDO CENTER DRIVE  
SAN DIEGO, CA 92127  
PHONE: (619) 376-3444 FAX: (619) 376-3555  
PROJECT ADDRESS:  
2202-2210 CLAIREMONT DRIVE  
PROJECT NAME:  
BAYVIEW PLAZA  
SHEET TITLE:  
TENTATIVE PARCEL MAP

REVISION 12: \_\_\_\_\_  
REVISION 11: \_\_\_\_\_  
REVISION 10: \_\_\_\_\_  
REVISION 9: \_\_\_\_\_  
REVISION 8: \_\_\_\_\_  
REVISION 7: \_\_\_\_\_  
REVISION 6: \_\_\_\_\_  
REVISION 5: \_\_\_\_\_  
REVISION 4: \_\_\_\_\_  
REVISION 3: \_\_\_\_\_  
REVISION 2: \_\_\_\_\_  
REVISION 1: \_\_\_\_\_

ORIGINAL DATE: 01/21/98  
SHEET 3 OF 3



## EASEMENT NOTES:

- ORDER NUMBER 94-107474
- AN EASEMENT FOR POLES, WIRES AND ACCESSORY PURPOSES, RECORDED DECEMBER 14, 1987 IN BOOK 2074, PAGE 271 OF OFFICIAL RECORDS. (TO BE OUTFLOWED)
  - AN EASEMENT FOR POLES, WIRES AND ACCESSORY PURPOSES, RECORDED DECEMBER 14, 1987 IN BOOK 2074, PAGE 271 OF OFFICIAL RECORDS. (PORTION TO BE OUTFLOWED)
  - AN EASEMENT FOR SEWER, DRAINAGE & PUBLIC UTILITIES AS SHOWN OR DESIGNATED BY MAP NO. 3780.
  - PROVISIONS OF THE DECLARATION STATEMENT ON MAP NO. 3780 WHICH RELATE TO CERTAIN RIGHTS OF ACCESS AND EGRESS TO CLAIREMONT DRIVE, UPON THE TERMS HEREIN, EXCEPT FOR THE GENERAL PUBLIC RIGHT TO TRAVEL THE SAME. (TO BE ACCEPTED)
  - AN EASEMENT FOR COMMUNICATION STRUCTURES, RECORDED MAY 13, 1998 IN BOOK 7003, PAGE 140 OF OFFICIAL RECORDS. (PORTION TO BE OUTFLOWED)

## EASEMENT NOTES CONT:

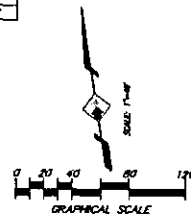
- AN EASEMENT FOR POLES, WIRES AND ACCESSORY PURPOSES, RECORDED AUGUST 14, 1988 IN BOOK 2224, PAGE 271 OF OFFICIAL RECORDS. (TO BE REMAIN)
- AN EASEMENT FOR A STORM DRAIN OR DRAINAGE AND APPURTENANCES BACKED TO ACCESSORY PURPOSES, RECORDED FEBRUARY 12, 1980 AS FILE NO. 3508 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- AN EASEMENT FOR POLES, WIRES AND ACCESSORY PURPOSES, RECORDED DECEMBER 14, 1987 IN BOOK 2074, PAGE 271 OF OFFICIAL RECORDS. (TO BE OUTFLOWED)
- AN EASEMENT FOR POLES, WIRES AND ACCESSORY PURPOSES, RECORDED MARCH 14, 1988 AS FILE NO. 4540 OF OFFICIAL RECORDS. (TO BE OUTFLOWED)
- AN EASEMENT FOR PUBLIC UTILITIES, RECORDED JUNE 24, 1989 AS FILE NO. 115400 OF OFFICIAL RECORDS. (TO BE ABANDONED)
- AN EASEMENT FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRICITY, RECORDED FEBRUARY 6, 1994 AS FILE NO. 34-40057 OF OFFICIAL RECORDS. (TO BE OUTFLOWED)

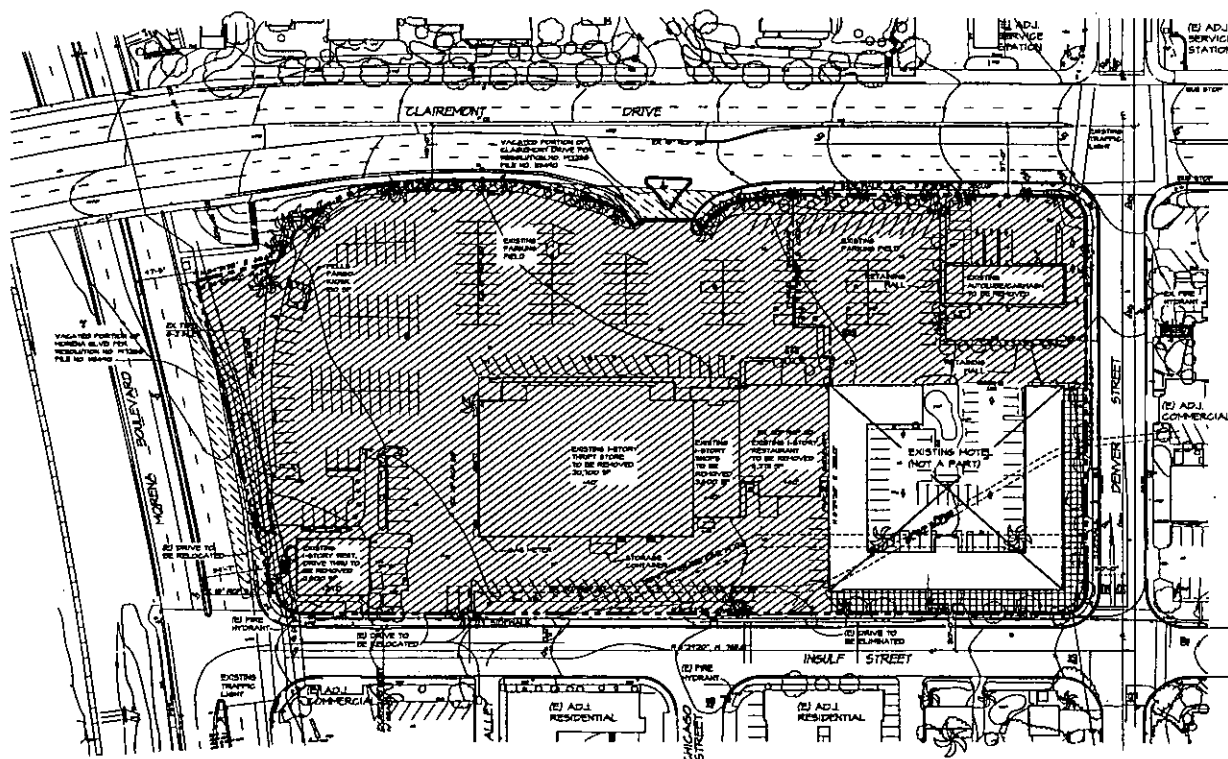
## EASEMENT NOTES CONT:

- AN EASEMENT FOR POWER, ENERGY AND ACCESSORY PURPOSES, RECORDED MAY 13, 1998 AS FILE NO. 83-00424 OF OFFICIAL RECORDS. (TO BE ACCEPTED)
- AN EASEMENT FOR POWER, ENERGY AND ACCESSORY PURPOSES, RECORDED MAY 13, 1998 AS FILE NO. 83-00424 OF OFFICIAL RECORDS. (TO BE ACCEPTED)
- AN EASEMENT FOR POWER, ENERGY AND ACCESSORY PURPOSES, RECORDED FEBRUARY 2, 1993 AS FILE NO. 1983-00885 OF OFFICIAL RECORDS. (TO BE ACCEPTED)
- ORDER NUMBER 94-107474
- AN UNNAMED EASEMENT AND ACCESSORY PURPOSES AS SHOWN OR AS OFFERED FOR RECORD ON MAP NO. 3780. (TO BE ABANDONED)
- PROVISIONS OF THE DECLARATION STATEMENT ON THE MAP NO. 3780 WHICH RELATE TO CERTAIN RIGHTS OF ACCESS AND EGRESS TO CLAIREMONT DRIVE, UPON THE TERMS HEREIN, EXCEPT FOR THE GENERAL PUBLIC RIGHT TO TRAVEL THE SAME. (TO BE ACCEPTED)
- COVENANTS, CONDITIONS AND RESTRICTIONS IN AN INSTRUMENT RECORDED OCTOBER 14, 1987 AS FILE NO. 82-00002 OF OFFICIAL RECORDS.

NO.	BEARING	LENGTH	CHORD BEARING	CHORD LENGTH
1	87°00'00" E	25.00'	24.85'	24.85'
2	87°00'00" E	25.00'	24.85'	24.85'
3	87°00'00" E	25.00'	24.85'	24.85'
4	87°00'00" E	25.00'	24.85'	24.85'
5	87°00'00" E	25.00'	24.85'	24.85'
6	87°00'00" E	25.00'	24.85'	24.85'
7	87°00'00" E	25.00'	24.85'	24.85'
8	87°00'00" E	25.00'	24.85'	24.85'
9	87°00'00" E	25.00'	24.85'	24.85'
10	87°00'00" E	25.00'	24.85'	24.85'

NO.	BEARING	LENGTH
1	N 87°00'00" E	25.00'
2	S 87°00'00" E	25.00'
3	N 87°00'00" E	25.00'
4	S 87°00'00" E	25.00'
5	N 87°00'00" E	25.00'
6	S 87°00'00" E	25.00'
7	N 87°00'00" E	25.00'
8	S 87°00'00" E	25.00'
9	N 87°00'00" E	25.00'
10	S 87°00'00" E	25.00'



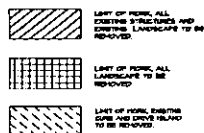


① EXISTING SITE PLAN/DEMOLITION PLAN

**NOTE:**

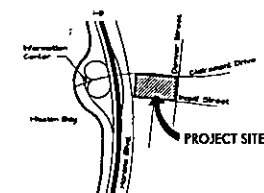
SEE CIVIL DRAWINGS FOR LOCATION OF PROPERTY LINES, EASEMENTS, VARIATIONS AND DISPOSITION OF ALL UNDERGROUND UTILITIES, ETC.

### LEGEND



#### NOTE

DUE TO THE NUMBER OF SITE EASEMENTS FOR CLARITY  
EASEMENTS ARE SHOWN ON THE ATTACHED CIVIL PLAN



## BAY VIEW PLAZA

CLAYBROOK DRIVE AT CUMBER STREET & MCNEEL SCULPTURAL SW CORNER, GA  
SA-0 EXISTING SITE PLAN/DEMOLITION PLAN SCALE: 1" = 40'-0"  
8 OF 23

**SITE DEVELOPMENT PERMIT  
PLANNED DEVELOPMENT  
PERMIT**

DATE: JANUARY 18, 2008  
NADEL JOB#: 04789

NADEL RETAIL ARCHITECTS, LLP  
425 BROADWAY SUITE 1073  
SAN DIEGO, CA 92101  
T.619.232.8424 F.619.232.7179  
WWW.NADELARC.COM

42. 1943-1944, 1945-1946, 1947, 1948-1949, 1950-1951, 1952-1953, 1954-1955, 1956-1957, 1958-1959, 1960-1961, 1962-1963, 1964-1965, 1966-1967, 1968-1969, 1970-1971, 1972-1973, 1974-1975, 1976-1977, 1978-1979, 1980-1981, 1982-1983, 1984-1985, 1986-1987, 1988-1989, 1990-1991, 1992-1993, 1994-1995, 1996-1997, 1998-1999, 2000-2001, 2002-2003, 2004-2005, 2006-2007, 2008-2009, 2010-2011, 2012-2013, 2014-2015, 2016-2017, 2018-2019, 2020-2021, 2022-2023, 2024-2025, 2026-2027, 2028-2029, 2030-2031, 2032-2033, 2034-2035, 2036-2037, 2038-2039, 2040-2041, 2042-2043, 2044-2045, 2046-2047, 2048-2049, 2050-2051, 2052-2053, 2054-2055, 2056-2057, 2058-2059, 2060-2061, 2062-2063, 2064-2065, 2066-2067, 2068-2069, 2070-2071, 2072-2073, 2074-2075, 2076-2077, 2078-2079, 2080-2081, 2082-2083, 2084-2085, 2086-2087, 2088-2089, 2090-2091, 2092-2093, 2094-2095, 2096-2097, 2098-2099, 2100-2101, 2102-2103, 2104-2105, 2106-2107, 2108-2109, 2110-2111, 2112-2113, 2114-2115, 2116-2117, 2118-2119, 2120-2121, 2122-2123, 2124-2125, 2126-2127, 2128-2129, 2130-2131, 2132-2133, 2134-2135, 2136-2137, 2138-2139, 2140-2141, 2142-2143, 2144-2145, 2146-2147, 2148-2149, 2150-2151, 2152-2153, 2154-2155, 2156-2157, 2158-2159, 2160-2161, 2162-2163, 2164-2165, 2166-2167, 2168-2169, 2170-2171, 2172-2173, 2174-2175, 2176-2177, 2178-2179, 2180-2181, 2182-2183, 2184-2185, 2186-2187, 2188-2189, 2190-2191, 2192-2193, 2194-2195, 2196-2197, 2198-2199, 2200-2201, 2202-2203, 2204-2205, 2206-2207, 2208-2209, 2210-2211, 2212-2213, 2214-2215, 2216-2217, 2218-2219, 2220-2221, 2222-2223, 2224-2225, 2226-2227, 2228-2229, 2230-2231, 2232-2233, 2234-2235, 2236-2237, 2238-2239, 2240-2241, 2242-2243, 2244-2245, 2246-2247, 2248-2249, 2250-2251, 2252-2253, 2254-2255, 2256-2257, 2258-2259, 2260-2261, 2262-2263, 2264-2265, 2266-2267, 2268-2269, 2270-2271, 2272-2273, 2274-2275, 2276-2277, 2278-2279, 2280-2281, 2282-2283, 2284-2285, 2286-2287, 2288-2289, 2290-2291, 2292-2293, 2294-2295, 2296-2297, 2298-2299, 2300-2301, 2302-2303, 2304-2305, 2306-2307, 2308-2309, 2310-2311, 2312-2313, 2314-2315, 2316-2317, 2318-2319, 2320-2321, 2322-2323, 2324-2325, 2326-2327, 2328-2329, 2330-2331, 2332-2333, 2334-2335, 2336-2337, 2338-2339, 2340-2341, 2342-2343, 2344-2345, 2346-2347, 2348-2349, 2350-2351, 2352-2353, 2354-2355, 2356-2357, 2358-2359, 2360-2361, 2362-2363, 2364-2365, 2366-2367, 2368-2369, 2370-2371, 2372-2373, 2374-2375, 2376-2377, 2378-2379, 2380-2381, 2382-2383, 2384-2385, 2386-2387, 2388-2389, 2390-2391, 2392-2393, 2394-2395, 2396-2397, 2398-2399, 2400-2401, 2402-2403, 2404-2405, 2406-2407, 2408-2409, 2410-2411, 2412-2413, 2414-2415, 2416-2417, 2418-2419, 2420-2421, 2422-2423, 2424-2425, 2426-2427, 2428-2429, 2430-2431, 2432-2433, 2434-2435, 2436-2437, 2438-2439, 2440-2441, 2442-2443, 2444-2445, 2446-2447, 2448-2449, 2450-2451, 2452-2453, 2454-2455, 2456-2457, 2458-2459, 2460-2461, 2462-2463, 2464-2465, 2466-2467, 2468-2469, 2470-2471, 2472-2473, 2474-2475, 2476-2477, 2478-2479, 2480-2481, 2482-2483, 2484-2485, 2486-2487, 2488-2489, 2490-2491, 2492-2493, 2494-2495, 2496-2497, 2498-2499, 2500-2501, 2502-2503, 2504-2505, 2506-2507, 2508-2509, 2510-2511, 2512-2513, 2514-2515, 2516-2517, 2518-2519, 2520-2521, 2522-2523, 2524-2525, 2526-2527, 2528-2529, 2530-2531, 2532-2533, 2534-2535, 2536-2537, 2538-2539, 2540-2541, 2542-2543, 2544-2545, 2546-2547, 2548-2549, 2550-2551, 2552-2553, 2554-2555, 2556-2557, 2558-2559, 2560-2561, 2562-2563, 2564-2565, 2566-2567, 2568-2569, 2570-2571, 2572-2573, 2574-2575, 2576-2577, 2578-2579, 2580-2581, 2582-2583, 2584-2585, 2586-2587, 2588-2589, 2590-2591, 2592-2593, 2594-2595, 2596-2597, 2598-2599, 2600-2601, 2602-2603, 2604-2605, 2606-2607, 2608-2609, 2610-2611, 2612-2613, 2614-2615, 2616-2617, 2618-2619, 2620-2621, 2622-2623, 2624-2625, 2626-2627, 2628-2629, 2630-2631, 2632-2633, 2634-2635, 2636-2637, 2638-2639, 2640-2641, 2642-2643, 2644-2645, 2646-2647, 2648-2649, 2650-2651, 2652-2653, 2654-2655, 2656-2657, 2658-2659, 2660-2661, 2662-2663, 2664-2665, 2666-2667, 2668-2669, 2670-2671, 2672-2673, 2674-2675, 2676-2677, 2678-2679, 2680-2681, 2682-2683, 2684-2685, 268



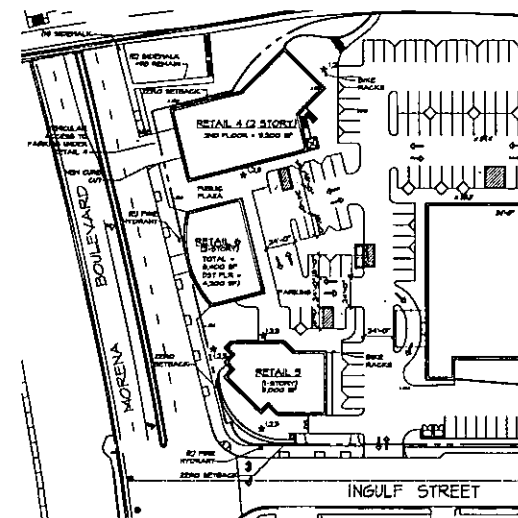
**NAD**  
NATIONAL  
RETRA

## EXISTING SITE PLAN/DEMOLITION PLAN


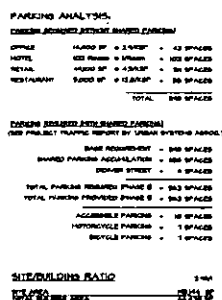
**BAY VIEW PLAZA**  
**SAN DIEGO, CALIFORNIA**

**Burgener-Clark, LLC.**

4180 LA JOLLA VILLAGE DRIVE, SUITE 408  
LA JOLLA, CA 92037  
TEL: (888) 443-7170  
FAX: (856) 825-8119



**② FUTURE PROPOSED DEVELOPMENT-PHASE 2**  
NOTE: WITHOUT SHARED PARKING CONSIDERATION, THE ADDITIONAL PHASE 2 PARKING REQUIRED OF 4,5000 SF = 106 SPACES.  
THIS PLAN IDENTIFIES 26 ADDITIONAL PARKING SPACES, LOCATED AT GRADE AND BELOW GRADE FOR FUTURE PHASE 2.



COLORFUL CONCRETE

STAMPED ASPHALT/CONCRETE

PATTERNED COLORED ASPHALT/CONCRETE

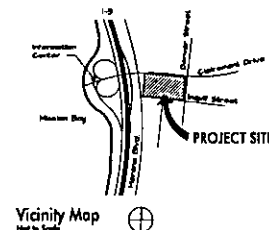
- 1 TRASH CONTAINER
- 2 CIGARETTE MASH
- 3 BENCH
- 4 PLANT CONTAINER
- 5 PUBLIC SEATING

**TRANSPORTATION NOTE:**

1. THERE ARE NO STOPPING OR PROPOSED TRANSIT STOPS/ BUS STOPS ALONG PROJECT SITE FRONTAGE.

**NOTES:**

1. DUE TO THE NUMBER OF SITE DEDICATIONS FOR SLA EXEMPTIONS ARE SHOWN ON THE ATTACHED CIVIL PLAN, THE FOLLOWING ARE NOT BEING EXEMPTED AND PROPOSED ASIDE PLANS.
2. ADDRESS RANGES ARE TRIMBLE FROM STREET TO PINE POLICY PLUMB-SIDE, SEE C-14.
3. PINE ADDRESS RANGWAY BARS OR RDS PLUMB ARE PROVIDED IN ACCORDANCE WITH PINE POLICY



### Vicinity Map

**BAY VIEW PLAZA**  
3971 CREVE-AT-COEVEN STREET & MCNEEL BOULEVARD  
UPPER LEVEL SITE PLAN SCALE: 1"=10'-0"  
8 OF 23

SITE DEVELOPMENT PERMIT  
PLANNED DEVELOPMENT  
PERMIT

DATE: JANUARY 18, 2008  
NADPH 1080: 0578

MADEL RIFTAL ARCHITECTS, LLP  
625 BROADWAY SUITE 1025  
SAN DIEGO, CA 92101  
T 619.232.8424 F 619.232.7179  
WWW.MADEL.RIFTAL.COM

THE UNIVERSITY OF MICHIGAN LIBRARIES  
300 N ZEEB RD  
ANN ARBOR MI 48106-1500  
TEL 734 763 7000  
WWW.LIBRARIES.UMICH.EDU

**N**

**NADEP**  
**RETAIL**  
**SA-1**

**BAY VIEW PLAZA**  
**SAN DIEGO, CALIFORNIA**

**Burgener-Clark, LLC.**

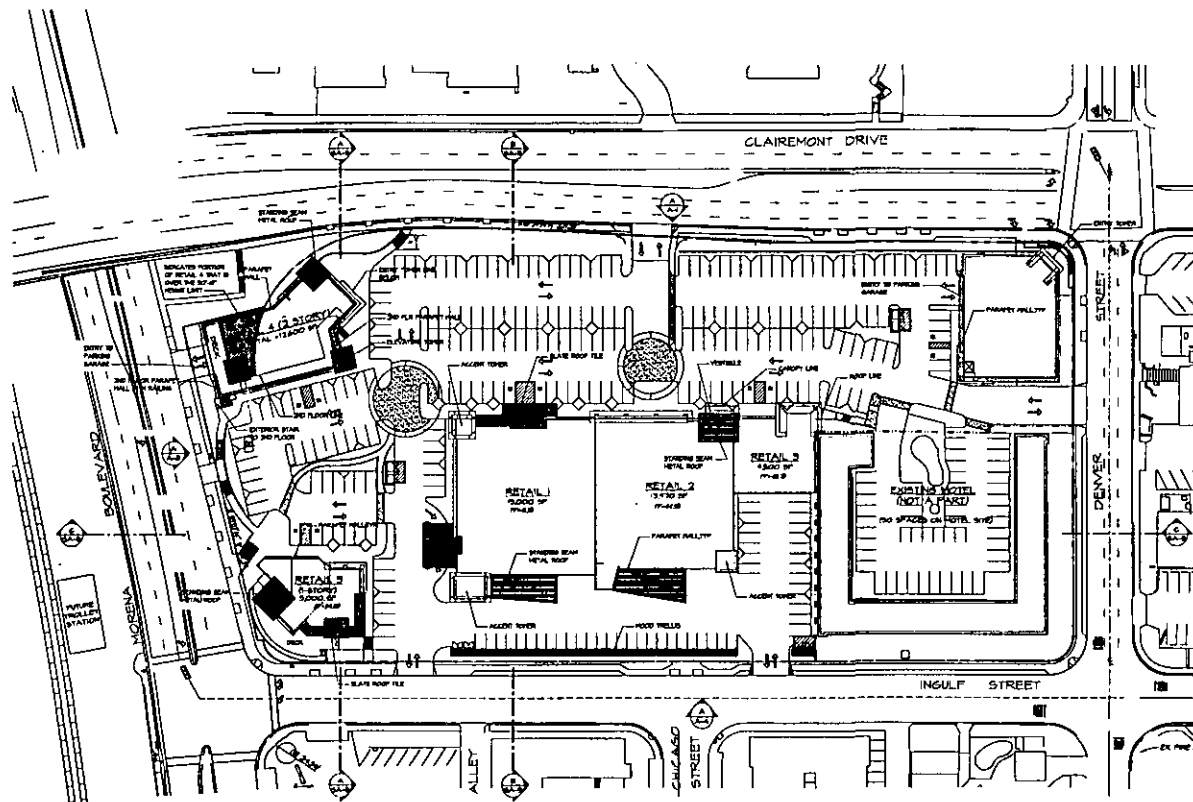
4186 LA JOLLA VILLAGE DRIVE, SUITE 400  
LA JOLLA, CA 92037  
TEL: (619) 452-7170  
FAX: (619) 525-8118

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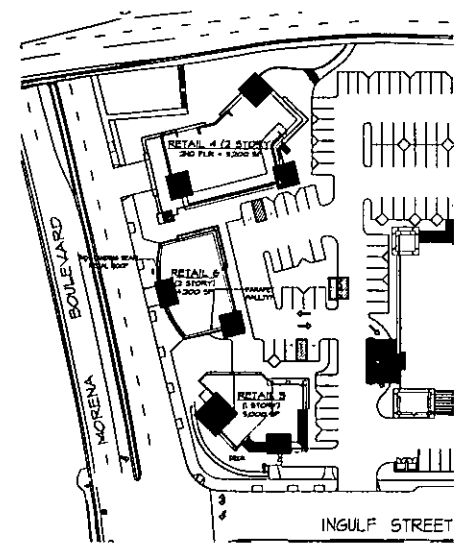


ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. DATE 08-01-2001 BY 60322 UCBAW

001358



① ROOF PLAN - PHASE 1



② FUTURE PROPOSE DEV'T ROOF PLAN - PHASE 2

LEGEND



INDICATES AREA OF ROOF OVER 30'-0" HEIGHT LIMITATION

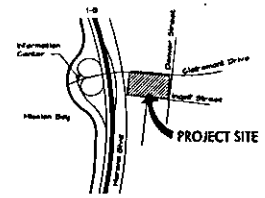
BUILDING OVERHEIGHT RATIO CALCULATION:

(AREA OF ROOF OVER HEIGHT LIMITATION / AREA OF ROOF + ROOF OVERHEIGHT RATIO IS)

PROJECT TOTAL (INCLUDES PHASE I & II)

BUILDING AREA TOTAL = 1,070,000 SF ±

NOTES:  
1. DUE TO THE NUMBER OF SET BACKS, FOR CLARITY SHEDDINGS ARE SHOWN ON THE ATTACHED GULF PLAN.



Vicinity Map  
Not to Scale

SITE ROOF PLAN

**BAY VIEW PLAZA**  
SAN DIEGO, CALIFORNIA

**BAY VIEW PLAZA**  
CLAIREMONT DRIVE AT DENVER STREET & MORENA BOULEVARD SAN DIEGO, CA  
SA-3 SITE ROOF PLAN SCALE: 1" = 40'-0"

11 OF 23  
SITE DEVELOPMENT PERMIT  
PLANNED DEVELOPMENT  
PERMIT  
DATE: JANUARY 18, 2008  
NADRI JOB# 04705

NADRI RETAIL ARCHITECTS, LLP  
433 BROADWAY SUITE 1025  
SAN DIEGO, CA 92101  
TEL: (619) 592-6434 FAX: (619) 592-7179  
WWW.NADRIARCH.COM

**Burgener-Clark, LLC.**

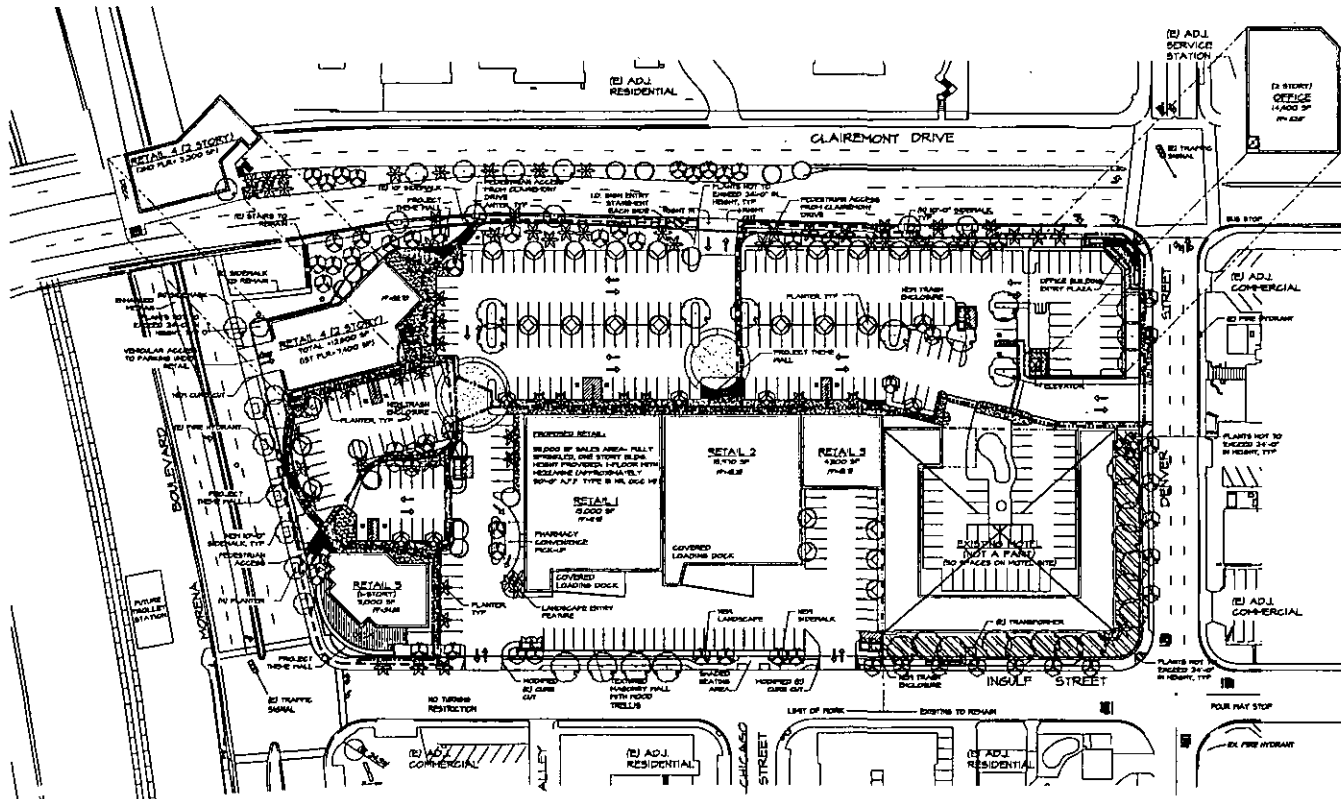
4180 LA JOLLA VILLAGE DRIVE, SUITE 406  
LA JOLLA, CA 92037  
TEL: (858) 452-7170  
FAX: (858) 452-8118



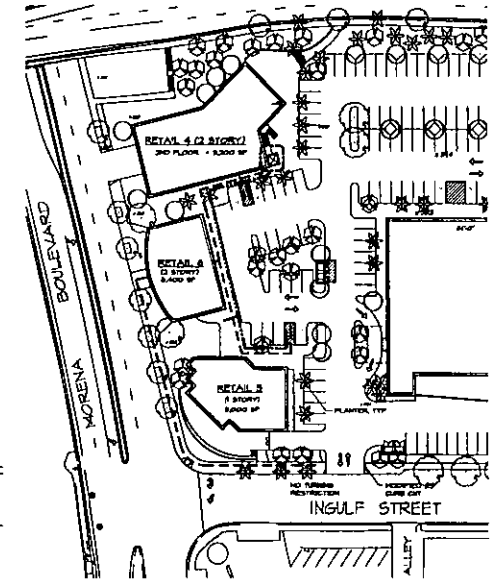
**SA-3**

ATTACHMENT

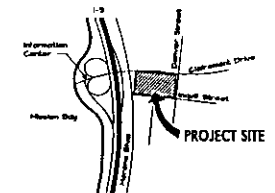
001359



① PHASE 1



② FUTURE PROPOSED DEVELOPMENT - PHASE 2



Vicinity Map  
Not to Scale

--- INDICATES ACCESSIBILITY PATH  
- - - - - INDICATES PEDESTRIAN PATH

**NOTES:**  
1. DUE TO THE NATURE OF THE SUBMITTAL, FOR CLARITY, LANDSCAPE AND PLANTING ARE SHOWN ON THE ATTACHED CIVIL PLAN. THE INTENT IS TO PROVIDE A GENERAL IDEA OF THE PLANNED DEVELOPMENT.  
2. ACCESSIBILITY AND VISIBLE FROM STREET FOR THE PROJECT IS SHOWN ON THE CIVIL PLAN.  
3. THE ACCESS ROADWAY SHOWN ON THE CIVIL PLAN SHALL BE IMPROVED TO ACCOMMODATE THE PROJECT'S ACCESS.

# PEDESTRIAN PATH PLAN

**BAY VIEW PLAZA**  
SAN DIEGO, CALIFORNIA

**Burgener-Clark, LLC.**

4180 LA JOLLA VILLAGE DRIVE, SUITE 405  
LA JOLLA, CA 92037  
TEL: (619) 463-1178  
FAX: (619) 463-1178

**BAY VIEW PLAZA**  
CLAREMONT DRIVE AT CLAREMONT STREET & LA JOLLA VILLAGE DRIVE SAN DIEGO, CA  
SA-4 PEDESTRIAN PATH PLAN SCALE 1" = 40'-0"  
17 OF 23

**SITE DEVELOPMENT PERMIT  
PLANNED DEVELOPMENT  
PERMIT**  
DATE: JANUARY 16, 2008  
NADREL JOB# 06708

NADREL RETAIL ARCHITECTS, LLP  
633 BROADWAY SUITE 1003  
SAN DIEGO, CA 92101  
TEL: 619.232.8454 FAX: 619.232.7177  
WWW.NADRELARCH.COM

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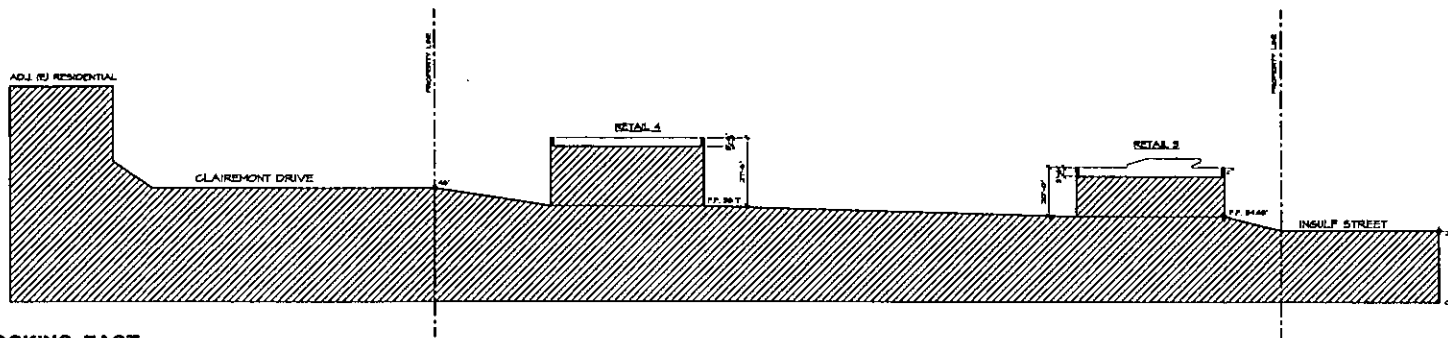


**SA-4**

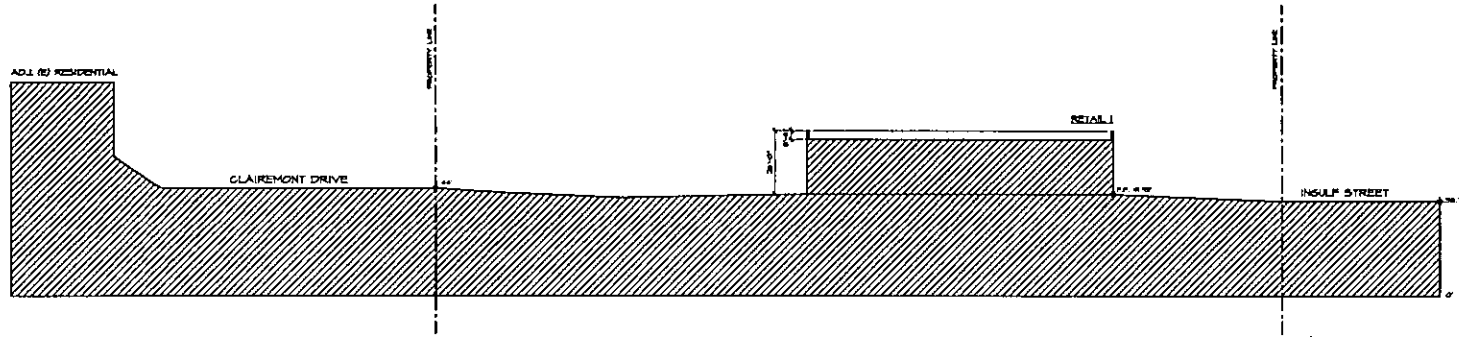
ATTACHMENT



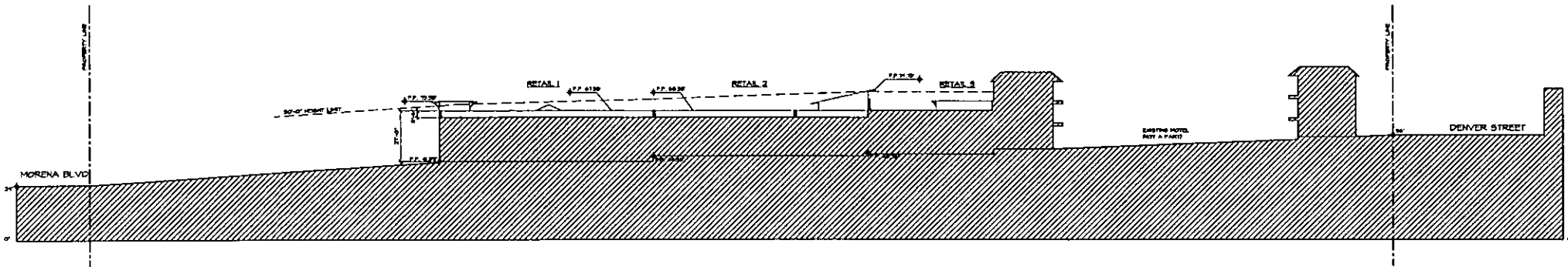
001360



A SECTION LOOKING EAST



B SECTION LOOKING EAST



C SECTION LOOKING NORTH

# SITE SECTIONS **BAY VIEW PLAZA** SAN DIEGO, CALIFORNIA

**BAY VIEW PLAZA**  
 CLAREMONT DRIVE AT CLAREMONT STREET & INSULP STREET SAN DIEGO, CA  
 SA-3 SITE SECTIONS SCALE: 1" = 30'-0"

SITE DEVELOPMENT PERMIT  
 PLANNED DEVELOPMENT  
 PERMIT  
 DATE: JANUARY 18, 2009  
 NADEL JOB#: 04780

NADEL RETAIL ARCHITECTS, LLP  
 625 BROADWAY SUITE 1025  
 SAN DIEGO, CA 92101  
 T. 619.233.8424 F. 619.232.7179  
 WWW.NADELARC.COM

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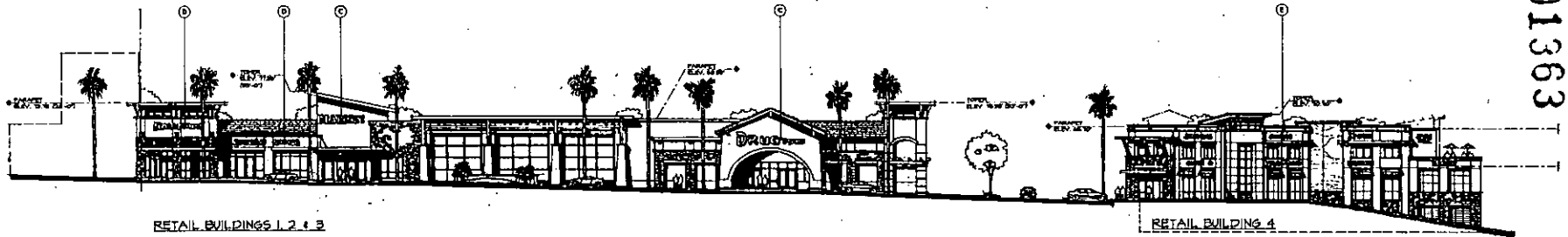
**SA-5**

ATTACHMENT 5

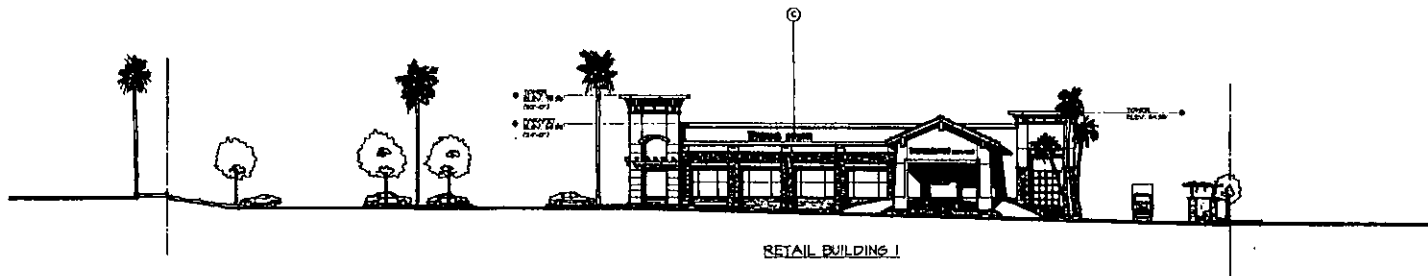




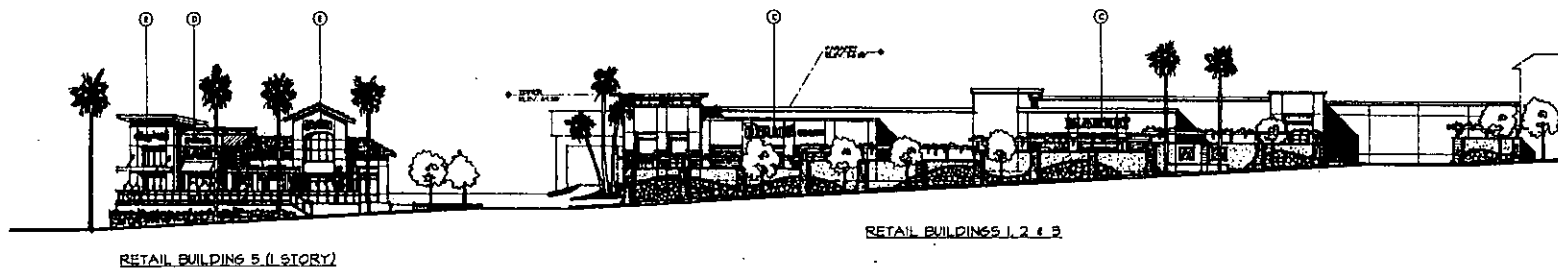
001363



Ⓐ NORTH ELEVATION - CLAIREMONT DRIVE



Ⓑ WEST ELEVATION - MORENA BLVD.



Ⓒ SOUTH ELEVATION - INGULF STREET

## SIGN CRITERIA ELEVATIONS

**BAY VIEW PLAZA**  
SAN DIEGO, CALIFORNIA

**Burgener-Clark, LLC.**

4180 LA JOLLA VILLAGE DRIVE, SUITE 400  
LA JOLLA, CA 92037  
TEL: (858) 453-7170  
FAX: (858) 453-7170

NOTES  
1. FOR TYPICAL SIGN CRITERIA NOTES, SEE SHEET A-6



### BAY VIEW PLAZA

CLAREMONT CORNER AT CLAREMONT STREET & MORENA BOULEVARD, SAN DIEGO, CA

A-7 SIGN CRITERIA ELEVATIONS SCALE: 1/16" = 1'-0"

21 OF 23

SITE DEVELOPMENT PERMIT  
PLANNED DEVELOPMENT  
PERMIT

DATE: JANUARY 18, 2008  
MADEL JORP: 06703

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**MADEL  
RETAIL  
A-7**

ATTACHMENT 5

PLANNING COMMISSION RESOLUTION NO. -----  
TENTATIVE PARCEL MAP NO. 525789  
Amending TM 179620  
**BAY VIEW PLAZA - PROJECT NO. 149101**  
**DRAFT**

WHEREAS, BURGNER-CLARK LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, CRAIG W. CLARK, MANAGING MEMBER, Subdivider, and PARTNERS PLANNING and ENGINEERING, submitted an application with the City of San Diego for a Tentative Map, No. 525789 amending TM 179620, for the reconfiguration of an existing two-lot subdivision. The project site is located at 2509-2591 Clairemont Drive, bounded by Clairemont Drive to the north, Denver Street to the east, Ingulf Street to the south and Morena Blvd. to the west, legally described as Lots 1 and 2 of West Clairemont Plaza Unit No. 1, Map No. 3780, in the CC-1-3 Zone of the Clairemont Mesa Community Plan; and

WHEREAS, the Map proposes the subdivision of a 4.43-acre site into four parcels; and

WHEREAS, An Addendum (Project No 149101) to Mitigated Negative Declaration No. 5540 was prepared in accordance with California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, on April 3, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 525789, including associated easement modifications and abandonments, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, and voted to recommended approval by the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 525789:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code Section 125.0440.a and State Map Action Sections 66473.5, 66474(a), and 66474(b)).
2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440.b).
3. The site is physically suitable for the type and density of development (Land Development Code Section 125.0440.c and State Map Act Sections 66474(c) and 66474(d)).

4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat (Land Development Code Section 125.0440.d and State Map Act Section 66474(e)).
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (Land Development Code Section 125.0440.e and State Map Act Section 66474(f)).
6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (Land Development Code Section 125.0440.f and State Map Act Section 66474(g)).
7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (Land Development Code Section 125.0440.g and State Map Act Section 66473.1).
8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).
9. The Subdivider shall underground existing and/or proposed utility systems and service facilities in accordance with the San Diego Municipal Code.
10. The property contains right-of-way which must be vacated and public service easements which must be modified and abandoned to implement the final map in accordance with San Diego Municipal Code section 125.0430.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), all easements and portions of public rights-of-way located within the project boundaries as shown in Tentative Map No. 525789, shall be modified, abandoned or vacated as appropriate, contingent upon the recordation of the approved final map for the project.

BE IT FURTHER RESOLVED, that said easements and portions of public rights-of-way shall be modified, abandoned or vacated, contingent upon easement reservations or relocations of gas and electric facilities satisfactory to the San Diego Gas and Electric Company.

BE IT FURTHER RESOLVED, that said easements and portions of public rights-of-way shall be modified, abandoned or vacated, contingent upon the relocation of water facilities satisfactory to the City Engineer.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), the following public service easements, located within the project boundaries as shown in Tentative Map No. 525789, shall be modified and vacated, contingent upon the recordation of the approved final map for the project:

- a. A portion of the building restricted easement granted on Parcel Map No. 3780.
- b. A portion of the general access and utility easement dedicated by Document recorded 9-20-2001 as File No. 2001-0678260. Said easement shall be vacated upon realignment and dedication of a general access and utility easement, satisfactory to the City Engineer.
- c. A portion of the pedestrian and non-motor vehicular right of way dedicated on Map No. 3780. Said easement shall be vacated upon realignment and dedication of a pedestrian and non-motor vehicular right of way, satisfactory to the City Engineer.
- d. A portion of the open space easement granted on Map 3780. Said easement shall be vacated upon realignment and dedication of an open space easement, satisfactory to the City Engineer.

The property contains right-of-ways and public service easements which must be vacated to implement the parcel map in accordance with San Diego Municipal Code section 125.0430.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66445(j), a portion of Clairemont Drive, a portion of Morena Boulevard and portions of certain public service easements, located within the project boundaries as shown in the Tentative Map No. 525789, shall be vacated, contingent upon the recordation of the approved parcel map for the project.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66445 (j) the following public service easements, located within the project boundaries as shown in Tentative Map No. 525789, shall be vacated, contingent upon the recordation on the approved final map for the project:

- a. Portions of the sewer, drainage and unnamed easements dedicated

on Map No. 3780.

- b. The drainage easement recorded February 17, 1960 as File No. 36258 of Official Records.
- c. The public utilities easement recorded June 29, 1969 as File No. 115490 of Official Records.

The property contains rights-of-ways and public service easements which must be vacated to implement the parcel map in accordance with San Diego Municipal Code Section 125.0430.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 525789, is hereby granted to BURGNER-CLARK LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, CRAIG W. CLARK, MANAGING MEMBER, Applicant/Subdivider, subject to the following conditions:

#### **GENERAL**

1. This Tentative Map will expire DATE.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
3. A Parcel Map shall be recorded in the Office of the County Recorder, prior to the Tentative Map expiration date.
4. This Parcel Map shall comply with the conditions of Site Development Permit No. 525777 Amending SDP No. 9100 and Planned Development Permit No. 525776 Amending PDP No. 179619.
5. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.

#### **ENGINEERING**

6. A Parcel Map shall be recorded in the Office of the County Recorder, prior to the Tentative Map expiration date.



7. Compliance with all conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
8. The subdivider shall vacate a portion of Clairemont Drive and Morena Boulevard rights-of-way and portions of sewer, drainage and unnamed easements.
9. The subdivider shall construct new City standard curb, gutter and sidewalk adjacent to the newly vacated portions of the right-of-way on Clairemont Drive and Morena Boulevard.
10. The subdivider shall install a maximum 30-foot wide City standard driveway, on Clairemont Drive, per Standard Drawings SDG-114, G-16 and SDG-100.
11. The subdivider shall install one 28-foot wide City standard driveway, on Denver Street, per Standard Drawings SDG-114, G-16 and SDG-100.
12. The subdivider shall install two separate 30-foot wide City standard driveways on Ingulf Street, per Standard Drawing SDG-114, G-16 and SDG-100.
13. The subdivider shall construct one 24-foot wide City standard driveway, on Morena Boulevard, per Standard Drawings SDG-114, G-16 and SDG-100.
14. The subdivider shall reconstruct the existing curb ramps with City standard curb ramps with truncated domes, at the following street intersections: Clairemont Drive and Denver Street, Denver Street and Ingulf Street and at Ingulf Street and Morena Boulevard.
15. Prior to the issuance of any construction permit, the subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
16. Prior to the issuance of any construction permit, the subdivider shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.
17. Prior to the issuance of any construction permit, the subdivider shall incorporate and show the type and location of all post construction Best Management Practices (BMP's) on the final construction drawings, consistent with the approved Water Quality Technical Report.
18. The drainage system for this project shall be private and will be subject to approval by the City Engineer.

19. The subdivider shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

20. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99 08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

21. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99 08 DWQ.

22. The subdivider shall obtain an Encroachment Maintenance and Removal Agreement for landscape and irrigation located in the City's right-of-way.

## **MAPPING**

23. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).

24. "California Coordinate System means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."

25. Every Parcel Map shall:

a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California

Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

26. The design of the subdivision shall include private easements, if any, serving parcels of land outside the subdivision boundary or such easements must be removed from the title of the subdivided lands prior to filing any parcel or final map encumbered by these easements.

## **WASTEWATER**

27. The developer shall relocate all onsite public sewer mains located in the west portion of this site to the public right of way, satisfactory to the Metropolitan Wastewater Department Director. All associated onsite public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director. The onsite 10 inch public sewer main that traverses this site from east to west is excluded from this requirement.

28. All proposed onsite sewer facilities shall be private.

29. The developer shall install all sewer facilities necessary to serve this development, satisfactory to the Metropolitan Wastewater Department Director.

30. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

31. Public sewer and water mains shall be installed with 10 feet edge to edge separation between them.

32. No structures or landscaping shall be installed in or over any sewer easement that would inhibit vehicular access to replace a section of main or provide access to any manhole or isolated section of main.

33. No approved improvements or landscaping, including private sewer facilities, grading and enhanced paving, shall be installed in or over any public easement prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.

34. No trees shall be installed within ten feet of any sewer facilities or in any sewer access easement. No shrubs exceeding three feet in height at maturity shall be installed within 10 feet of any public sewer main or within access easements.

35. No other utilities, including gas, electric, telephone and fiber optic cable, shall be located within 10 feet of any public sewer main when these utilities are installed parallel to the sewer main. General Utility Easements in private roads and driveways shall be sized with sufficient width to provide for other agencies facilities. In side yards or other non street areas, a GUE must be dedicated for the exclusive use of the City of San Diego

or the Metropolitan Wastewater Department. Other agencies will require separate easements.

36. The developer shall grant a private easement to the adjacent hotel lot to the east for their private sewer lateral.

## **GEOLOGY**

37. Prior to the issuance of a grading permit, a geotechnical report shall be submitted and approved by the City Engineer in accordance with the City of San Diego's Technical Guidelines for Geotechnical Reports.

## **INFORMATION:**

- The approval of this Tentative Map by the City Council of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).
- If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- This development may be subject to payment of a park fee prior to the filing of the Parcel Map in accordance with San Diego Municipal Code.
- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within 90 days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.

PASSED AND ADOPTED BY THE PLANNING COMMISSION AND  
RECOMMENDED FOR APPROVAL TO THE CITY COUNCIL OF THE CITY OF  
SAN DIEGO, CALIFORNIA, ON DATE.

001372

By

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Farah Mahzari  
Development Project Manager  
Development Services Department

Job Order No. 43-0260

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION 501

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**  
or  
**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
**MAIL STATION 501**  
**Delete one of the above.**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 43-0260

PLANNED DEVELOPMENT PERMIT NO. 525776 (AMENDING PDP NO. 179619)  
SITE DEVELOPMENT PERMIT NO. 525777 (AMENDING SDP NO. 9100)  
**BAY VIEW PLAZA [MMRP]- PROJECT NO. 149101**

**PLANNING COMMISSION RECOMMENDATION**

This Planned Development Permit No. 525776 and Site Development Permit No. 525777 Amending PDP No. 179619 and SDP No. 9100 is granted by the City Council of the City of San Diego to BURGNER-CLARK, LLC, a California Limited Liability Company, CRAIG W. CLARK, managing member, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0501 and 126.0601. The 5.31-acre site is located at 2509-2591 Clairemont Drive in the CC-1-3 (Community Commercial) zone of the Clairemont Mesa Community Plan. The project site is legally described as Lots 1 and 2 of West Clairemont Plaza Unit No.1, Map No. 3780.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop the site with a shopping center, including retail commercial, restaurant and office uses, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated [**INSERT Approval Date**], on file in the Development Services Department.

The project shall include:

- a. Demolition of existing buildings and construction in two phases. Phase I consists of 14,400 square-foot of office space, 49,100 square-foot of retail space (to include some restaurants), and 3,000 square-foot of quality restaurant. Phase II will consist of 8,400 square-foot of retail to be added;
- b. Landscaping (planting, irrigation and landscape related improvements);

- c. Off-street parking;
- d. Accessory improvements including retaining walls, signs, and lighting; and
- e. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.



11. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase per the approved exhibit "A."

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project

13. As conditions of the Planned Development Permit No. 525776 and Site Development Permit No. 525777 Amending PDP No. 179619 and SDP No. 9100, the mitigation measures specified in the Mitigation Monitoring and Reporting Program [MMRP], and outlined in Mitigated Negative Declaration [MND] No.149101 Addendum to MND No. 5540 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in MITIGATED NEGATIVE DECLARATION NO. 149101 Addendum to MND No. 5540, satisfactory to the Development Services Department and the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

**Human Health/Public Safety, Solid Waste and Traffic.**

15. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

**LONG RANGE PLANNING REQUIREMENTS:**

16. The three major "Public Plaza" areas identified on sheet L-1 shall each include a minimum of 2 amenities from the following list: benches, seatwalls, community kiosks, fountains, public art, or urban furniture. Additionally, several bicycle racks shall be included on the project site. The amenities shall be installed prior to the issuance of occupancy permits.

**ENGINEERING REQUIREMENTS:**

17. This permit shall comply with the provisions of the Tentative Map No. 525789.

**LANDSCAPE REQUIREMENTS:**

18. Prior to issuance of construction permits for grading, the Permittee or Subsequent Owner shall submit landscape construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the Land Development Manual Landscape Standards and to

the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.

19. Prior to issuance of construction permits for public right-of-way improvements, the Permittee or Subsequent Owner shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall take into account a 40 sq-ft area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

20. Prior to issuance of any construction permits for buildings; the Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual, Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department.

21. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or Subsequent Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

22. The Permittee or Subsequent Owner shall maintain all landscape in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

23. The Permittee or Subsequent Owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

24. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Permittee or Subsequent Owner is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Certificate of Occupancy.

25. A Substantial Conformance Review [SCR] shall be required for the future development of Phase 2 in accordance with Information Bulletin 500 and the City of San Diego's Land Development Code [LDC]. The SCR shall reflect all revisions to the Phase 1, "Landscape Development Plan," [Amendment to SDP# 9100 and PDP# 179619] as part of the Phase 2 proposal and shall be consistent with the Land Development Manual, Landscape Standards.

**PLANNING/DESIGN REQUIREMENTS:**

26. No fewer than 362 (phase 1) and 398 (phase 2) off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.
27. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.
28. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.
29. Signage shall not be located within driveway visibility areas, as restricted by the Land Development Code.
30. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

**GEOLOGY REQUIREMENTS:**

31. Title Restrictions – Prior to issuance of any grading and/or building permit(s), the Owner/Permittee shall execute a Notice of Hazardous Condition-Indemnification and Hold Harmless Agreement, in a form and content acceptable to the Director of the Development Services Department, or designated representative who shall provide : (a) the Applicant unconditionally waives any claim of liability against the City of San Diego and agrees to defend, indemnify and hold harmless the City of San Diego and its advisors relative to the City of San Diego's approval of the project and for any damage due to natural hazards. This Notice of Hazardous Conditions-Indemnification and Hold Harmless Agreement shall be recorded against title to the property and shall run with the land, binding upon all successor and assigns.

**TRANSPORTATION REQUIREMENTS**

32. Phase I of the project shall consist of a maximum of 14,400 square feet of office, 49,100 square feet of retail (including a market with a maximum square footage of 14,000 square feet and a drug store with a maximum 15,000 square feet), and a 3,000 square feet quality restaurant, Phase II shall consist of a retail building with a maximum of 8,400 square feet. The entire project may include a high turnover restaurant with a maximum of 3,300 square feet, a fast food restaurant with a maximum of 1,400 square feet, and at most 1 ATM.
33. No fewer than 362 off-street automobile, 4 carpool parking spaces, 10 accessible spaces including 2 van accessible spaces, 2 loading spaces, 7 bicycle spaces with racks, and 7 motorcycle parking spaces shall be provided for Phase I. No fewer than 398 off-street automobile, 7 carpool parking spaces, 10 accessible including 2 van accessible spaces, 2 loading

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spaces, 7 bicycle spaces with racks, and 8 motorcycle parking spaces shall be provided in Phase II. These spaces shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A". Further, all on-site parking stalls and aisle widths shall be in compliance with the requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the City Manager.

34. Prior to the issuance of the first building permit, the applicant shall assure by permit and bond the restriping of Denver Street from Clairemont Drive to Ingulf Street, to include one northbound lane, one southbound lane, and a two-way-left-turn-lane, satisfactory to the City Engineer.

35. Prior to the issuance of the first building permit, the applicant shall provide a Mutual Access Agreement, between all affected tenants, satisfactory to the City Engineer.

36. Prior to the issuance of any building permits, the applicant shall demonstrate the provision of an ability to maintain adequate visibility sight distance at all access point to the subject development, following the guidelines as set in the City LDC Section 113.0273 and AASHTO (Chapter 3, 2001 edition) guidelines as defined in the City of San Diego Street Design manual dated November 2002 (Page 116, Intersections, Item number 8), as appropriate, satisfactory to the City Engineer.

#### **WASTEWATER REQUIREMENTS:**

37. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

38. Prior to the issuance of any grading or building permits, the developer shall relocate all onsite public sewer mains located in the west portion of this site to the public right of way, satisfactory to the Metropolitan Wastewater Department Director. All associated onsite public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director. The onsite 10 inch public sewer main that traverses this site from east to west is excluded from this requirement.

39. Prior to the issuance of any public improvement or building permits, the developer shall obtain an Encroachment Maintenance and Removal Agreement for all approved structures or landscaping, including private sewer facilities, grading, and enhanced paving installed in or over the public sewer easement.

40. No structures or landscaping shall be installed in or over any sewer easement that would inhibit vehicular access to replace a section of main or provide access to any manhole or isolated section of main.

41. No trees shall be installed within ten feet of any sewer facilities or in any sewer access easement. No shrubs exceeding three feet in height at maturity shall be installed within 10 feet of any public sewer main or within access easements.
42. No other utilities, including gas, electric, telephone and fiber optic cable, shall be located within 10 feet of any public sewer main when these utilities are installed parallel to the sewer main. General Utility Easements in private roads and driveways shall be sized with sufficient width to provide for other agencies facilities. In side yards or other non street areas, a GUE must be dedicated for the exclusive use of the City of San Diego or the Metropolitan Wastewater Department. Other agencies will require separate easements.
43. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.
44. All proposed onsite sewer facilities shall be private.
45. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.
46. Prior to the issuance of any public improvement or building permits, the developer shall grant a private easement to the adjacent hotel lot to the east for their private sewer lateral.

**WATER REQUIREMENTS:**

47. Prior to the issuance of the first building permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of public 16-inch water facilities within the Morena Boulevard right-of-way, from Ingulf Street to the northerly project boundary, replacing the existing water facilities adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.
48. Prior to the issuance of the first building permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s), including domestic, fire and irrigation, and the disconnection at the mains of all existing unused water services adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer. All on-site water facilities shall be private.
49. Prior to the issuance of any building permits, the Owner/Permittee shall apply for plumbing permit(s) for the installation of private back flow prevention device(s) on all water services to the development, including all domestic, fire and irrigation services, in a manner satisfactory to the Water Department Director and the City Engineer. All backflow prevention devices shall be located above grade and outside of any private structures.
50. Prior to the issuance of the first certificates of occupancy, the Owner/Permittee shall install and/or replace fire hydrants at locations satisfactory to the Fire Marshal, the Water Department Director and the City Engineer. All on-site fire hydrants shall be private.

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51. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall design and construct new public water facilities, into acceptable alignments and rights-of-way, in the event any public water facility in the vicinity of the project site loses integrity due to the construction and grading activities associated with this development, in a manner satisfactory to the Water Department Director and the City Engineer.

52. Prior to the issuance of any certificates of occupancy, the public water facilities, including domestic, fire and irrigation services and meters necessary to serve this development, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

53. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current editions of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities and easements, as shown on approved Exhibit "A," shall be modified at final engineering to comply with standards.

**METROPOLITAN TRANSIT DEVELOPMENT BOARD (MTDB) REQUIREMENT:**

54. The applicant shall participate in discussions with the San Diego Association of Government (SANDAG) regarding the possibility of providing shared transit parking at the shopping center as construction of the Mid-Coast light rail line approaches.

**INFORMATION ONLY:**

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.
- This development may be subject to impact fees at the time of construction permit issuance

APPROVED by the City Council of the City of San Diego on [date and resolution number] .

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ATTACHMENT 7

Permit Type/PTS Approval No.: 149101  
Date of Approval:

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

\_\_\_\_\_  
NAME  
TITLE

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

\_\_\_\_\_  
**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of  
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

**[NAME OF COMPANY]**  
Owner/Permittee

By \_\_\_\_\_  
NAME  
TITLE

**[NAME OF COMPANY]**  
Owner/Permittee

By \_\_\_\_\_  
NAME  
TITLE

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

Rev. 02/04/08 rh

(R-INSERT)

RESOLUTION NUMBER R-NUMBER  
**DRAFT**  
ADOPTED ON DATE

WHEREAS, Burgener-Clark, LLC, a California Limited Liability company, Craig W. Clark, Managing member, Owner/Permittee, filed an application with the City of San Diego for a shopping center, including retail commercial, restaurant and office uses (as described in and by reference to the approved Exhibit "A" and corresponding conditions of approval for associated Planned Development Permit No. 525776 amending PDP No. 179619, and Site Development Permit No. 525777 amending SDP No. 9100), on portions of a 4.43 Acre site; and

WHEREAS, the project site is located at 2509-2592 Clairemont Drive, within the CC-1-3 (Community Commercial) Zone of the Clairemont Mesa Community Plan; and

WHEREAS, the project site is legally described as Lots 1 and 2 of West Clairemont Plaza Unit No. 1, Map No. 3780; and

WHEREAS, on April 3, 2008, the Planning Commission of the City of San Diego considered Planned Development Permit No. 525776 and Site Development Permit No. 525777, and pursuant to Resolution No. INSERT PLANNING COMM. RESOLUTION NUMBER-PC voted to INSERT EITHER "recommend City Council approval of the permit" OR "approved/denied the permit"; and

WHEREAS, the matter was set for public hearing on DATE, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to PDP NO. 525776 and SDP NO. 525777:



**Planned Development Permit - Section 126.0604****A. Findings for all Planned Development Permits**

1. **The proposed development will not adversely affect the applicable land use plan:** The Bay View Plaza project is located east of Mission Bay, Interstate 5 and Morena Boulevard, north of Ingulf Street, west of Denver Street and south of Clairemont Drive, at 2509-2591 Clairemont Drive. It lies within the Clairemont Mesa Community Plan Area, and is designated in the community plan for general commercial land use. The property is zoned CC-1-3, the purpose of which is to accommodate community-serving commercial services, retail uses, and limited industrial uses of moderate intensity and small to medium scale. The intent of the CC-1-3- zone is to provide for a range of development patterns from pedestrian-friendly commercial streets to shopping centers and auto-oriented strip commercial streets, and may include residential development. The CC-1-3 zone is intended to accommodate development with an auto orientation. The Bay View Plaza project implements the goals and policies of the Clairemont Mesa Community Plan as well as the CC-1-3 zoning. The land use plan for this site calls for the type of development being proposed by the Bay View Plaza project which consists of community-serving commercial and retail, including grocery, restaurant and office uses. The project also complies with the City's Transit Oriented Design (TOD) guidelines. The proposed Bay View Plaza project has been designed in harmony with the Clairemont Mesa Community Plan, implements its goals and policies and, therefore, will not adversely affect the applicable land use plan.

The project site is located within the Community Plan Implementation Overlay Zone for Clairemont Mesa (Land Development Code Section 132.0401). The purpose of this Overlay Zone is to provide supplemental developmental regulations that are tailored to specific sites within community plan areas of the City. The intent of this Overlay Zone is to ensure that development proposals are reviewed for consistency with the use and development criteria that have been adopted for specific sites as part of the community plan update process.

The project site is located within the Clairemont Mesa Height Limit Overlay Zone (Land Development Code Section 132.1301). The purpose of this Overlay Zone is to provide supplemental height regulations for western Clairemont Mesa. The intent of this Overlay Zone is to ensure that the existing low profile development in Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected.

The project site is located within the Transit Area Overlay Zone (Land Development Code Section 132.1001). The purpose and intent of this Overlay Zone are to provide supplemental parking regulations for areas receiving a high-level of transit service, and to identify areas with reduced parking demand and to lower off-street parking requirements accordingly.

The project site is located within the North Bay Redevelopment Plan and the North Bay Redevelopment Project (San Diego Municipal Code Ordinance No. O-18516 New Series). The objectives of the Plan which are applicable to this project include –

- a. Eliminate and prevent the spread of blight and deterioration, and conserve, rehabilitate and redevelop the proposed Redevelopment Project Area in accordance with the General Plan, specific plans, the Redevelopment Plan, and local codes and ordinances including the Municipal and Land Development Codes;
- b. Improve, promote, and preserve the positive neighborhood characteristics in North Bay, while correcting physical and economic deficiencies in the community;
- c. Improve and attract the growth and vitality of the proposed Redevelopment Project Area's business environment and address the commercial, service and employment needs of the proposed Redevelopment Project Area;
- d. Encourage the expansion of existing commercial activities, the development of vacant properties and the rehabilitation of dilapidated structures through a coordinated parking program that could include structures or shared parking opportunities throughout all communities within the Project Area;
- e. Enhance the quality of pedestrian and vehicular mobility, and improve transportation facilities, which support the vitality, safety, and viability of North Bay;
- f. Improve the quality of non-vehicular transportation alternatives through the creation and expansion of non-vehicular routes throughout the Project Area;
- g. Enhance infrastructure facilities which improve the community and support public safety, health, and local vitality;
- h. Do such public improvements as needed to eliminate both physical and economic conditions of blight; and
- i. Encourage the growth and retention of small business.

2. **The proposed development will not be detrimental to the public health, safety, and welfare:** The proposed Bay View Plaza project has been designed to conform to the City of San Diego's codes, policies, and regulations, and the Uniform Codes, the primary focus of which is the protection of the public's health, safety and welfare. The Bay View Plaza project has been reviewed by staff, and determined to be consistent with the Clairemont Mesa Community Plan. An Addendum to the certified Mitigated Negative Declaration has been prepared in accordance with the State of California Environmental Quality Act (CEQA) and the City's environmental regulations, the Fire Department's fire protection policies, and all other applicable regulations. Prior to commencing construction activities for buildings on the site, City staff will review building permit plans for conformance with the Land Development Code and Uniform Codes including plumbing, mechanical, fire and building Codes to ensure that structural, mechanical,

electrical, plumbing and access components of the project are designed to protect the public's health, safety and welfare. The project will conform to the development regulations of the Land Development Code for the CC-1-3 Zone established in 2000, which reflect the City's current standards. Deviations to setback and signage requirements have been reviewed and determined to be consistent with the purpose and intent of applicable policies and therefore appropriate.

**3. The proposed development will comply with the regulations of the Land Development Code:** The proposed Bay View Plaza project has been designed to comply with the regulations of the San Diego Municipal Code, including those related to bulk and scale, street design, open space, grading, landscaping, and parking. As provided by the Land Development Code, the Bay View Plaza project includes a deviation from a 20-foot setback that was established in a 1958 final map (the deviation is required to make the project compliant with the City's current zoning standards), and an exception to the 30-foot height limit of the Clairemont Mesa Height Limitation Overlay Zone. The deviation and exception will result in a more desirable project, as is further discussed in Finding 5 below.

**4. The proposed development, when considered as a whole, will be beneficial to the community:** The Bay View Plaza project proposes the phased development of a shopping center with retail commercial, restaurant and office uses, along with landscaping, parking and accessory improvements consistent with the land use and development standards applicable to the site. The project has been designed and developed in accordance with the Clairemont Mesa Community Plan to assure that the architectural character, development considerations and related policies of that plan are implemented. The Bay View Plaza project implements the Clairemont Mesa Community Plan in a manner consistent with the adopted zoning and therefore will be beneficial to the community as a whole.

**5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone:** The Bay View Plaza project includes a deviation from a setback required on a 1958 final map that is inconsistent with current City zoning and standards, and an exception to the Clairemont Mesa Height Limitation Overlay Zone. Staff has reviewed the elevation plans and related exhibits and determined that the development as proposed will not adversely impact any public views that the Clairemont Mesa Height Limitation Overlay Zone was designed to protect. The deviation for setback and the exception to the height limitation are consistent with Land Development Code objectives for Planned Development and Site Development Permits, and the overall intensity of the development conforms to the underlying zoning. The project incorporates a variety of compatible uses, and a pedestrian-oriented environment. The project is designed to respond to the unique topographic, geometric, access, and regulatory constraints on the site. The proposed deviation permits building configurations and ground signs around the perimeter of the Bay View Plaza project to conform to zoning standards of the CC-1-3 zone, established in 2000, in lieu of setbacks established with a 1958 final map on the property. The setback deviation also allows for the creation of pedestrian-oriented sidewalks, and allows the

allows the project to comply with the City's Transit Oriented Design (TOD) guidelines. The TOD guidelines are designed to emphasize pedestrian orientation and urban character near existing or proposed transit facilities. The 20-foot setback required without a deviation, would be inconsistent with the neighborhood surrounding the development. Deviating from the setback allows building entries and storefront windows more proximate to the public sidewalks and provides a development that is interesting and inviting to pedestrians and therefore consistent with the TOD guidelines. The exception from the 30-foot height limitation will not adversely impact any existing public views from western Clairemont Mesa to Mission Bay or the Pacific Ocean, and therefore would not impact the views the height limit was designed to protect. The Bay View Plaza project is sensitively designed to conform to the topography of the site, which slopes downward from east to west toward Mission Bay. Views from major roads and public spaces are not impacted due to the significant topographic slope in the area near the Bay View Plaza project. The proposed deviation for setback and exception for height limitation will result in a more desirable project than otherwise would be achieved if designed in strict conformance with the underlying 1958 final map and the 30-foot height limitation.

#### **Site Development Permit - Section 126.0504**

##### **A. Findings for all Site Development Permits**

**1. The proposed development will not adversely affect the applicable land use**

**plan:** The Bay View Plaza project is located east of Mission Bay, Interstate 5 and Morena Boulevard, north of Ingulf Street, west of Denver Street and south of Clairemont Drive, at 2509-2591 Clairemont Drive. It lies within the Clairemont Mesa Community Plan Area, and is designated in the community plan for general commercial land use. The property is zoned CC-1-3, the purpose of which is to accommodate community-serving commercial services, retail uses, and limited industrial uses of moderate intensity and small to medium scale. The intent of the CC-1-3 zone is to provide for a range of development patterns from pedestrian-friendly commercial streets to shopping centers and auto-oriented strip commercial streets, and may include residential development. The CC-1-3 zone is intended to accommodate development with an auto orientation. The Bay View Plaza project implements the goals and policies of the Clairemont Mesa Community Plan as well as the CC-1-3 zoning. The land use plan for this site calls for the very type of development being proposed by the Bay View Plaza project; namely, community-serving commercial and retail. The project also complies with the City's Transit Oriented Design (TOD) guidelines. The proposed Bay View Plaza project has been designed in harmony with the Clairemont Mesa Community Plan, implements its goals and policies and, therefore, will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety,**

**and welfare:** The proposed Bay View Plaza project has been designed to conform to the City of San Diego's codes, policies, and regulations, the primary focus of which is the protection of the public's health, safety and welfare. The Bay View Plaza project has been reviewed extensively by City staff, and is consistent with the Clairemont Mesa Community Plan, the California Environmental Quality Act, the City's environmental

regulations, the Multiple Species Conservation Program, landscaping and brush management policies, the Fire Department's fire protection policies, water and sewer study recommendations, and requirements for a healthy pedestrian environment, etc. In addition, prior to actual construction of buildings on the subject property, the City staff will review building permit plans against the Uniform Building Code to assure that structural, mechanical, electrical, plumbing and access components of the project are designed to protect the public's health, safety and welfare. The project will conform to contemporary zoning standards (C-1-3) established in 2000, which reflect the City's current standards.

**3. The proposed development will comply with the applicable regulations of the Land Development Code:** The proposed Bay View Plaza project has been designed to comply with the regulations of the San Diego Municipal Code, including requirements for density, bulk and scale, setbacks, street design, open space, grading, landscaping, brush management and parking. As provided for in the Land Development Code, the Bay View Plaza project includes a deviation from certain regulations regarding a 20-foot setback that was established in a 1958 final map (the deviation is required to make the project compliant with the City's current zoning standards), and a minor exception to the Clairemont Mesa 30-foot height limit. The deviation and height limitation exception will result in a more desirable project.

**B. Supplemental Findings--Clairemont Mesa Height Limit**

**1. The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area:** The granting of an exception will not significantly interfere with existing public views from western Clairemont Mesa (the only area that potentially could be impacted by the height limit exception at this location) to Mission Bay and the Pacific Ocean. Overviews from major roads and public spaces at higher elevations are not compromised due to the significant topographic slope in the area near the development. Moreover, the most significant views of Mission Bay and the Pacific Ocean in the area of the development are the public views available to travelers on Clairemont Drive. The only views in that area that potentially would be blocked by the development's exception from the height limit already have been blocked by the existing off-ramp on Interstate 5 just to the west of the development, as well as by the mature trees that exist in the area, and the billboard on the north east corner of the project site. Because the billboard, trees and freeway off-ramp already block any public views from Clairemont Drive to Mission Bay and the Pacific Ocean from low-lying areas that otherwise potentially may be blocked by the project, there is no existing public view being blocked solely as a result of the development's proposed height exception. The proposed project will improve the situation by removing the existing billboard on the northeast corner as part of Phase One.

**2. The granting of an exception is appropriate because there are existing structures over 30 feet in height and the proposed development will be compatible with surrounding one, two, or three-story structures; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the**

**granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure:** The granting of an exception is appropriate because there are existing structures over 30-feet in height and the proposed development will be compatible with surrounding one, two, or three-story structures. For example, the Best Western Motel in the Bay View complex, as well as two medical buildings at the corner of Gesner and Denver Streets, already has portions that exceed the height limit, and the proposed development is compatible with those existing buildings. The proposed two- and three-story development also would be compatible with the other surrounding one, two and three-story structures in the area, which vary in shape and size in a way that fits in well with the proposed project. The development's proposed grouping of smaller buildings would preserve intermediate vistas through the village complex that exists from places on the adjoining streets. In addition, the granting of an exception is appropriate because there are topographic constraints peculiar to the property at and near the proposed development. For example, there is more than 40 feet of fall from the intersection of Clairemont Drive and Denver Street to the intersection of Morena Boulevard and Ingulf Street. As a result, the buildings in the development were designed to step and terrace, to accommodate the slope to the maximum extent feasible. Moreover, the granting of the exception is needed to permit roofline and façade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Planned Development Permit No. 525776 and Site Development Permit No. 525777 is granted to BURGNER-CLARK, LLC, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: MICHAEL AGUIRRE, City Attorney

By

\_\_\_\_\_  
NAME

Deputy City Attorney

ATTY/SEC. INITIALS

DATE

Or.Dept:Clerk

R-INSERT

Form=permitr.frm(61203wct)

Reviewed by Farah Mahzari

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DOC # 2005

ATTACHMENT 9



JUN 28, 2005 4:24 PM

OFFICIAL RECORDS  
SAN DIEGO COUNTY RECORDER'S OFFICE  
GREGORY J. SMITH, COUNTY RECORDER  
FEES: 68.00  
PAGES: 21



2005-0545230

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100M

RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO  
CITY CLERK  
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR

RECORDER'S USE

JOB ORDER NUMBER: 42-1105

PTS 5540

SITE DEVELOPMENT PERMIT NO. 9100 AND  
PLANNED DEVELOPMENT PERMIT NO. 179619  
BAY VIEW PLAZA [MMRP]  
PLANNING COMMISSION RECOMMENDATION

This Site Development Permit No. 9100 and Planned Development Permit No. 179619 is granted by the City Council of the City of San Diego to Burgener-Clark, LLC, a California Limited Liability Company, Craig W. Clark, managing member, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0501 and 126.0601. The 5.31-acre site is located at 2509-2591 Clairemont Drive, within the CC-1-3 (Community-Commercial) Zone of the Clairemont Mesa Community Plan. The project site is legally described as Lots 1 and 2 of West Clairemont Plaza Unit No. 1, Map No. 3780.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop the site with a shopping center, including retail commercial, restaurant and office uses, described and identified by size, dimension, quantity, type, and location on the approved exhibits, April 19, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. In Phase One 1) Major Retail Building, a single-level with mezzanine structure totaling 48,240 sq. ft.; 2) Building One, a three-level, restaurant, retail and office structure comprising 11,606 sq. ft.; 3) Building Two, a two-level retail and restaurant structure comprising 15,126 sq. ft.; 4) Building Three, a single-level with mezzanine retail structure comprising 2,998 sq. ft.; and 5) An upper-level, 89,686 sq. ft., and lower-level,

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88,747 sq. ft. parking structure, which will provide a total of 483 off-street parking spaces;

- b. In Phase Two 1) A new, two-level, 8,800 sq. ft. office and/or retail commercial building, and 2) Expansion of the upper-level parking deck and/or lower-level parking garage;
- c. Off-street parking facilities;
- d. Accessory improvements including retaining walls, signs and lighting; and
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act [CEQA] Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such *Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.*
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.



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5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 *et seq.*).

7. The Owner/Permittee shall secure all necessary building permits. The Applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit is required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. This Permit shall become effective with recordation of the corresponding final Parcel Map for and approval of the project site.

11. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disability Act [ADA] requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

13. As conditions of Site Development Permit No. 9100 and Planned Development Permit No. 179619, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration [MND] No. 5540 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in MND No. 5540 satisfactory to the City Manager and City Engineer. Prior to issuance of the first demolition permit, first grading permit, and/or first building permit, all conditions of the MMRP shall be adhered to. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

~~Paleontological Resources~~, Human Health/Public Safety, ~~Noise~~, Solid Waste and Traffic.

15. Prior to issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

**GEOLOGY REQUIREMENTS:**

16. Title Restrictions - Prior to issuance of any grading and/or building permit(s), the Owner/Permittee shall execute a Notice of Hazardous Condition-Indemnification and Hold Harmless Agreement, in a form and content acceptable to the Director of the Development Services Department, or designated representative who shall provide:  
(a) the Applicant unconditionally waives any claim of liability against the City of San Diego and agrees to defend, indemnify and hold harmless the City of San Diego and its advisors relative to the City of San Diego's approval of the project and for any damage due to natural hazards. This Notice of Hazardous Conditions-Indemnification and Hold Harmless Agreement shall be recorded against title to the property and shall run with the land, binding upon all successor and assigns.

**ENGINEERING REQUIREMENTS:**

17. This/these Permit(s) shall comply with the provisions of Tentative Parcel Map No. 179620.

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LANDSCAPE REQUIREMENTS:

18. No change, modification or alternation shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

19. Prior to issuance of any engineering permits for grading, construction documents for hydroseeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to the Permit associated with this project (including environmental conditions) and Exhibit "A."

20. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way and median (if applicable) improvements shall be submitted to the City Manager for approval. Improvement plans shall include a Street Tree Location Plan, which identifies a station point for each street tree location that takes into account a 40-square-foot area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

21. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in Substantial conformance with Exhibit "A" Landscape Development Plan. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area'.

22. Prior to issuance of any construction permits for parking structures, the Permittee shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.

23. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit 'A' Landscape Development Plan. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area'.

24. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections.

25. A No-Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

26. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.
27. The Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (in the right-of-way and median landscaping), consistent with the Landscape Standards unless long-term maintenance of street trees, right-of-way and median landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review to a Landscape Planner.

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28. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.

#### PLANNING/DESIGN REQUIREMENTS:

29. There shall be compliance with the regulations of the underlying zone(s) unless a deviation (for example - setbacks or signage), variance, or exception (for example - building height), to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation, variance or exception from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.
30. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation, variance or exception to the height limit has been granted as a specific condition of this Permit.
31. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.
32. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

33. All signs associated with this development shall be consistent with sign criteria established by the approved Sign Plan, identified as "Exhibit A."

34. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting on the property is directed to fall only onto the same premises as light sources are located.

35. Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding eight footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this Permit during the night inspection. Night inspections may be required additional fees as determined by the City Manager.

36. All private outdoor lighting on the property shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the San Diego Municipal Code.

37. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

38. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

39. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within or otherwise screened by an architecturally

integrated structure whose sides may include grillwork, louvers, and latticework. The intent of this condition is to minimize view impacts to/from adjacent properties and to enhance aesthetics.

40. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A."

41. Signage shall not be located within driveway visibility areas, as restricted by the SDMC.

#### WASTEWATER REQUIREMENTS:

42. Prior to the issuance of any building or grading permits, the developer shall relocate all on-site public sewer mains to a public right-of-way, satisfactory to the Metropolitan Wastewater Department Director. Also, any associated on-site public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director.

43. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

44. Prior to issuance of any building permits, the developer shall obtain an Encroachment Maintenance and Removal Agreement for all approved structures or landscaping installed in or over any public sewer access easement/right-of-way.

45. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

46. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

#### WATER REQUIREMENTS:

47. Prior to the issuance of the first building permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of public 16-inch water facilities within the Morena Boulevard right-of-way, from Ingulf Street to the northerly project boundary, replacing the existing water facilities adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

48. Prior to the issuance of the first building permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s), including domestic, fire and irrigation, and the disconnection at the mains of all existing unused water services adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer. All on-site water facilities shall be private.
49. Prior to the issuance of any building permits, the Owner/Permittee shall apply for plumbing permit(s) for the installation of private back flow prevention device(s) on all water services to the development, including all domestic, fire and irrigation services, in a manner satisfactory to the Water Department Director and the City Engineer. All ~~backflow prevention devices shall be located above grade and outside of any private structures.~~
50. Prior to the issuance of the first certificates of occupancy, the Owner/Permittee shall install and/or replace fire hydrants at locations satisfactory to the Fire Marshal, the Water Department Director and the City Engineer. All on-site fire hydrants shall be private.
51. Prior to the issuance of any certificates of occupancy, the public water facilities, including domestic, fire and irrigation services and meters necessary to serve this development, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.
52. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current editions of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities and easements, as shown on approved Exhibit "A," shall be modified at final engineering to comply with standards.

#### TRANSPORTATION DEVELOPMENT REQUIREMENTS:

53. No fewer than 465 (Phase 1) and 496 (Phase 2) off-street parking spaces shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A". Further, all on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code, and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the City Manager.
54. Prior to the issuance of the first building permit, the applicant shall assure by permit and bond the restriping of Denver Street from Clairemont Drive to Ingulf Street, to include one northbound lane, one southbound lane, and a two-way-left-turn-lane satisfactory to the City Engineer.
55. Prior to the issuance of the first building permit, the applicant shall assure by permit and bond the construction of a standard 30-foot wide driveway on Ingulf Street approximately 100 feet east of Morena Boulevard on the projects southerly boundary,

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satisfactory to the City Engineer. The subject driveway construction shall include 10 feet of rolled curb immediately adjacent to each edge of the subject driveway, satisfactory to the City Engineer, to allow truck access without backing into the public right-of-way.

56. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer.

57. Prior to the issuance of the first building permit, the applicant shall provide a ~~Mutual Access Agreement, between all affected tenants, satisfactory to the City Engineer.~~

58. Prior to the issuance of any building permits the applicant shall demonstrate the provision of an ability to maintain adequate visibility sight distance at all access points to the subject development, following the guidelines as set in the City's LDC section 113.0273 and AASHTO (Chapter 3, 2001 edition) guidelines as defined in the City of San Diego Street Design Manual dated November 2002 (Page 116, Intersections, Item number 8), as appropriate, satisfactory to the City Engineer.

**METROPOLITAN TRANSIT DEVELOPMENT BOARD (MTDB)**  
**REQUIREMENT:**

59. The Applicant shall participate in discussions with the San Diego Association of Governments [SANDAG] regarding the possibility of providing shared transit parking at the shopping center as construction of the Mid-Coast light rail line approaches.

**INFORMATION ONLY:**

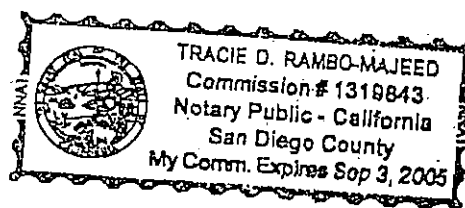
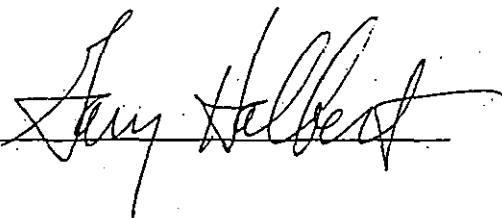
Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the Council of the City of San Diego on April 19, 2005 by Resolution No. R-300349.



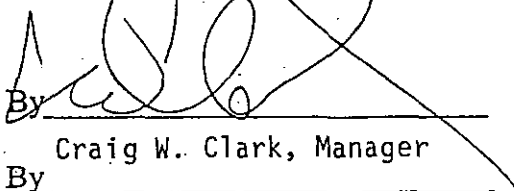
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AUTHENTICATED BY THE CITY MANAGER

By 

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

Burgener Clark, LLC, A California Corporation  
Owner/Permittee limited liability company

By   
By Craig W. Clark, Manager

NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 *et seq.*

PERMIT/OTHER - Permit Shell 11-01-04

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of SAN DIEGO

} ss.

On JUNE 28, 2005

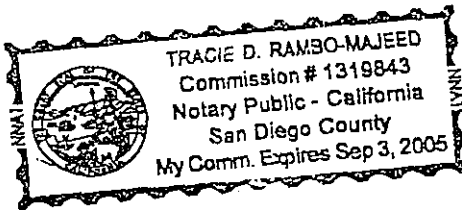
Date

before me, TRACIE D. RAMBO-MAJEED

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared GARY HALBERT

Name(s) of Signer(s)

☒ personally known to me☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

Description of Attached Document BAY VIEW PLAZA  
 Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

**RIGHT THUMBPRINT  
OF SIGNER**  
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## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

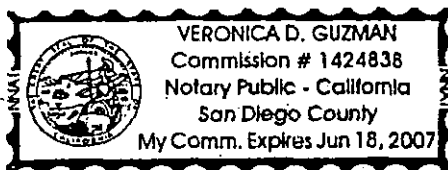
ss.

On June 23, 2005, before me, Veronica D. Guzman, Notary  
 Date Name and Title of officer (e.g., "Jane Doe, Notary Public")

personally appeared Craig W. Clark  
 Name(s) of Signer(s)

- ☒ personally known to me  
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are  
 subscribed to the within instrument and acknowledged  
 to me that he/she/they executed the same in  
 his/her/their authorized capacity(ies), and that by  
 his/her/their signature(s) on the instrument the  
 person(s), or the entity upon behalf of which the  
 person(s) acted, executed the instrument.



Witness my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

## OPTIONAL

*though the information below is not required by law, it may prove valuable to persons relying on the document  
 and could prevent fraudulent removal and reattachment of this form to another document.*

## Description of Attached Document

Title or Type of Document: Site Development Permit and Planned Development Permit - Bay View PlazaDocument Date: June 23, 2005 Number of Pages: 18 with Notary page

Signer(s) Other Than Named Above: \_\_\_\_\_

## Capacity(ies) Claimed by Signer

Signer's Name: Craig W. Clark

- ☐ Individual  
☐ Corporate Officer - Title(s): \_\_\_\_\_  
☐ Partner - Limited General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator

☒ Other:Signer is representing: Burgener-Clark, LLC, a California limited liability company as its Manager

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OF SIGNER  
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(R-2005-1228)

## RESOLUTION NUMBER R-300349

ADOPTED ON APRIL 19, 2005

WHEREAS, Burgener-Clark, LLC, a California Limited Liability Company, Craig W. Clark, managing member, Owner/Permittee, filed an application with the City of San Diego for a permit to develop a shopping center, including retail commercial, restaurant and office uses (as described in and by reference to the approved Exhibit "A" and corresponding conditions of approval for the associated Site Development Permit No. 9100 and Planned Development Permit No. 179619), on portions of a 5.31-acre site; and

WHEREAS, the project site is located at 2509-2591 Clairemont Drive, within the CC-1-3 (Community-Commercial) Zone of the Clairemont Mesa Community Plan; and

WHEREAS, the project site is legally described as Lots 1 and 2 of West Clairemont Plaza Unit No. 1, Map No. 3780; and

WHEREAS, on January 27, 2005, the Planning Commission of the City of San Diego considered Site Development Permit No. 9100 and Planned Development Permit No. 179619, and pursuant to Resolution No. 3646-PC voted to recommend City Council approval of the Permit; and

WHEREAS, the matter was set for public hearing on April 19, 2005, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 9100 and Planned Development Permit No. 179619:

**ORIGINAL**

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**A. PLANNED DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE  
[SDMC]/LAND DEVELOPMENT CODE SECTION 126.0604**

1. The proposed development will not adversely affect the applicable land use plan. The Bay View Plaza project is located east of Mission Bay, Interstate 5 and Morena Boulevard, north of Ingulf Street, west of Denver Street and south of Clairemont Drive, at 2509-2591 Clairemont Drive. It lies within the Clairemont Mesa Community Plan Area, and is designated in the community plan for general commercial land use. The property is zoned CC-1-3, the purpose of which is to accommodate community-serving commercial services, retail uses, and limited industrial uses of moderate intensity and small to medium scale. The intent of the CC-1-3- zone is to provide for a range of development patterns from pedestrian-friendly commercial streets to shopping centers and auto-oriented strip commercial streets, and may include residential development. The CC-1-3 zone is intended to accommodate development with an auto orientation. The Bay View Plaza project implements the goals and policies of the Clairemont Mesa Community Plan as well as the CC-1-3 zoning. The land use plan for this site calls for the type of development being proposed by the Bay View Plaza project which consists of community-serving commercial and retail, including grocery, restaurant and office uses. The project also complies with the City's TOD guidelines. The proposed Bay View Plaza project has been designed in harmony with the Clairemont Mesa Community Plan, implements its goals and policies and, therefore, will not adversely affect the applicable land use plan.

The project site is located within the Community Plan Implementation Overlay Zone for Clairemont Mesa (Land Development Code section 132.0401). The purpose of this Overlay Zone is to provide supplemental developmental regulations that are tailored to specific sites within community plan areas of the City. The intent of this Overlay Zone is to ensure that development proposals are reviewed for consistency with the use and development criteria that have been adopted for specific sites as part of the community plan update process.

The project site is located within the Clairemont Mesa Height Limit Overlay Zone (Land Development Code section 132.1301). The purpose of this Overlay Zone is to provide supplemental height regulations for western Clairemont Mesa. The intent of this Overlay Zone is to ensure that the existing low profile development in Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected.

The project site is located within the Transit Area Overlay Zone (Land Development Code section 132.1001). The purpose and intent of this Overlay Zone are to provide supplemental parking regulations for areas receiving a high-level of transit service, and to identify areas with reduced parking demand and to lower off-street parking requirements accordingly.

The project site is located within the North Bay Redevelopment Plan and the North Bay Redevelopment Project (San Diego Municipal Code Ordinance No. O-18516 New Series). The objectives of the Plan which are applicable to this project include:

- a. Eliminate and prevent the spread of blight and deterioration, and conserve, rehabilitate and redevelop the proposed Redevelopment Project Area in accordance with the General Plan, specific plans, the Redevelopment Plan, and

local codes and ordinances including the Municipal and Land Development Codes;

- b. Improve, promote, and preserve the positive neighborhood characteristics in North Bay, while correcting physical and economic deficiencies in the community;
- c. Improve and attract the growth and vitality of the proposed Redevelopment Project Area's business environment and address the commercial, service and employment needs of the proposed Redevelopment Project Area;
- d. Encourage the expansion of existing commercial activities, the development of vacant properties and the rehabilitation of dilapidated structures through a coordinated parking program that could include structures or shared parking opportunities throughout all communities within the Project Area;
- e. Enhance the quality of pedestrian and vehicular mobility, and improve transportation facilities, which support the vitality, safety, and viability of North Bay;
- f. Improve the quality of non-vehicular transportation alternatives through the creation and expansion of non-vehicular routes throughout the Project Area;
- g. Enhance infrastructure facilities which improve the community and support public safety, health, and local vitality;
- h. Do such public improvements as needed to eliminate both physical and economic conditions of blight; and
- i. Encourage the growth and retention of small business.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed Bay View Plaza project has been designed to conform to the City of San Diego's codes, policies, and regulations, and the Uniform Codes, the primary focus of which is the protection of the public's health, safety and welfare. The Bay View Plaza project has been reviewed by staff, and determined to be consistent with the Clairemont Mesa Community Plan. A Mitigated Negative Declaration has been prepared for certification in accordance with the State of California Environmental Quality Act [CEQA] and the City's environmental regulations, the Fire Department's fire protection policies, and all other applicable regulations. Prior to commencing grading or construction activities on the site, City staff will review building permit plans for conformance with the Land Development Code and Uniform Codes including plumbing, mechanical, fire and building Codes to ensure that structural, mechanical, electrical, plumbing and access components of the project are designed to protect the public's health, safety and welfare. The project will conform to the development regulations of the Land Development Code for the CC-1-3 Zone established in 2000, which reflect the City's current standards. Deviations to setback and signage requirements have been reviewed and determined to be consistent with the purpose and intent of applicable policies and therefore appropriate.

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3. The proposed development will comply with the regulations of the Land Development Code. The proposed Bay View Plaza project has been designed to comply with the regulations of the San Diego Municipal Code, including those related to bulk and scale, street design, open space, grading, landscaping, and parking. As provided by the Land Development Code, the Bay View Plaza project includes a deviation from a 20-foot setback that was established in a 1958 final map (the deviation is required to make the project compliant with the City's current zoning standards), and an exception to the 30-foot height limit of the Clairemont Mesa Height Limitation Overlay Zone. The deviation and exception will result in a more desirable project, as is further discussed in Finding 5 below.

4. The proposed development, when considered as a whole, will be beneficial to the community. The Bay View Plaza project proposes the phased development of a shopping center with retail commercial, restaurant and office uses, along with landscaping, parking and accessory improvements consistent with the land use and development standards applicable to the site. The project has been designed and developed in accordance with the Clairemont Mesa Community Plan to assure that the architectural character, development considerations and related policies of that plan are implemented. The Bay View Plaza project implements the Clairemont Mesa Community Plan in a manner consistent with the adopted zoning and therefore will be beneficial to the community as a whole.

5. Any proposed deviations pursuant to SDMC section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The Bay View Plaza project includes a deviation from a setback required on a 1958 final map that is inconsistent with current City zoning and standards, and an exception to the Clairemont Mesa Height Limitation Overlay Zone. Staff has reviewed the elevation plans and related exhibits and determined that the development as proposed will not adversely impact any public views that the Clairemont Mesa Height Limitation Overlay Zone was designed to protect. The deviation for setback and the exception to the height limitation are consistent with Land Development Code objectives for Planned Development and Site Development Permits, and the overall intensity of the development conforms to the underlying zoning. The project incorporates a variety of compatible uses, and a pedestrian-oriented environment. The project is designed to respond to the unique topographic, geometric, access, and regulatory constraints on the site. The proposed deviation permits building configurations and ground signs around the perimeter of the Bay View Plaza project to conform to zoning standards of the CC-1-3 zone, established in 2000, in lieu of setbacks established with a 1958 final map on the property. The setback deviation also allows for the creation of pedestrian-oriented sidewalks, and allows the project to comply with the City's Transit Oriented Design [TOD] guidelines. The TOD guidelines are designed to emphasize pedestrian orientation and urban character near existing or proposed transit facilities. The 20-foot setback required without a deviation, would not be inconsistent with the neighborhood surrounding the development. Deviating from the setback allows building entries and storefront windows to adjoin the public sidewalks and provides a development that is interesting and inviting to pedestrians and therefore consistent with the TOD guidelines. The deviation also allows screening of the lower level parking garage through the placement of perimeter buildings in closer proximity to the property lines. The exception from the 30-foot height limitation will not adversely impact any existing public views from western Clairemont Mesa to Mission Bay or the Pacific Ocean, and therefore would not impact the views the height

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limit was designed to protect. The Bay View Plaza project is sensitively designed to conform to the topography of the site, which slopes downward from east to west toward Mission Bay. Views from major roads and public spaces are not impacted due to the significant topographic slope in the area near the Bay View Plaza project. The proposed deviation for setback and exception for height limitation will result in a more desirable project than otherwise would be achieved if designed in strict conformance with the underlying 1958 final map and the 30-foot height limitation.

**B. SITE DEVELOPMENT PERMIT – SDMC/LAND DEVELOPMENT CODE**  
**SECTION 126.0504**

1. The proposed development will not adversely affect the applicable land use plan. The Bay View Plaza project is located east of Mission Bay, Interstate 5 and Morena Boulevard, north of Ingulf Street, west of Denver Street and south of Clairemont Drive, at 2509-2591 Clairemont Drive. It lies within the Clairemont Mesa Community Plan Area, and is designated in the community plan for general commercial land use. The property is zoned CC-1-3, the purpose of which is to accommodate community-serving commercial services, retail uses, and limited industrial uses of moderate intensity and small to medium scale. The intent of the CC-1-3 zone is to provide for a range of development patterns from pedestrian-friendly commercial streets to shopping centers and auto-oriented strip commercial streets, and may include residential development. The CC-1-3 zone is intended to accommodate development with an auto orientation. The Bay View Plaza project implements the goals and policies of the Clairemont Mesa Community Plan as well as the CC-1-3 zoning. The land use plan for this site calls for the very type of development being proposed by the Bay View Plaza project; namely, community-serving commercial and retail. The project also complies with the City's TOD guidelines. The proposed Bay View Plaza project has been designed in harmony with the Clairemont Mesa Community Plan, implements its goals and policies and, therefore, will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed Bay View Plaza project has been designed to conform to the City of San Diego's codes, policies, and regulations, the primary focus of which is the protection of the public's health, safety and welfare. The Bay View Plaza project has been reviewed extensively by City staff, and is consistent with the Clairemont Mesa Community Plan, the California Environmental Quality Act, the City's environmental regulations, the Multiple Species Conservation Program, landscaping and brush management policies, the Fire Department's fire protection policies, water and sewer study recommendations, and requirements for a healthy pedestrian environment, etc. In addition, prior to actual construction on the subject property, the City staff will review building permit plans against the Uniform Building Code to assure that structural, mechanical, electrical, plumbing and access components of the project are designed to protect the public's health, safety and welfare. The project will conform to contemporary zoning standards (C-1-3) established in 2000, which reflect the City's current standards.

3. The proposed development will comply with the applicable regulations of the Land Development Code. The proposed Bay View Plaza project has been designed to comply with the regulations of the San Diego Municipal Code, including requirements for density, bulk and scale, setbacks, street design, open space, grading, landscaping, brush management and



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parking. As provided for in the Land Development Code, the Bay View Plaza project includes a deviation from certain regulations regarding a 20-foot setback that was established in a 1958 final map (the deviation is required to make the project compliant with the City's current zoning standards), and a minor exception to the Clairemont Mesa 30-foot height limit. The deviation and height limitation exception will result in a more desirable project.

**C. SUPPLEMENTAL CLAIREMONT MESA HEIGHT LIMIT OVERLAY ZONE, SDMC/LAND DEVELOPMENT CODE SECTION 126.0504(J).**

1. **The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area.** The granting of an exception will not significantly interfere with existing public views from western Clairemont Mesa (the only area that potentially could be impacted by the height limit exception at this location) to Mission Bay and the Pacific Ocean. Overviews from major roads and public spaces at higher elevations are not compromised due to the significant topographic slope in the area near the development. Moreover, the most significant views of Mission Bay and the Pacific Ocean in the area of the development are the public views available to travelers on Clairemont Drive. The only views in that area that potentially would be blocked by the development's exception from the height limit already have been blocked by the existing off-ramp on Interstate 5 just to the west of the development, as well as by the mature trees that exist in the area. Because the trees and freeway off-ramp already block any public views from Clairemont Drive to Mission Bay and the Pacific Ocean from low-lying areas that otherwise potentially may be blocked by the project, there is no existing public view being blocked solely as a result of the development's proposed height exception.

2. **The granting of an exception is appropriate because there are existing structures over 30-feet in height and the proposed development will be compatible with surrounding one, two, or three-story structures; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.** The granting of an exception is appropriate because there are existing structures over 30-feet in height and the proposed development will be compatible with surrounding one, two, or three-story structures. For example, the Best Western Motel in the Bay View complex, as well as two medical buildings at the corner of Gesner and Denver Streets, already has portions that exceed the height limit, and the proposed development is compatible with those existing buildings. The proposed two-and three-story development also would be compatible with the other surrounding one, two and three-story structures in the area, which vary in shape and size in a way that fits in well with the proposed project. The development's proposed grouping of smaller buildings would preserve intermediate vistas through the village complex that exists from places on the adjoining streets. In addition, the granting of an exception is appropriate because there are topographic constraints peculiar to the property at and near the proposed development. For example, there is more than 40 feet of fall from the intersection of Clairemont Drive and Denver Street to the intersection of Morena Boulevard and Ingulf Street. As a result, the buildings in the development were designed to step and terrace, to accommodate the slope to the maximum extent feasible. Moreover, the granting of the exception is needed to permit

roofline and façade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Site Development Permit No. 9100 and Planned Development Permit No. 179619 is granted to Burgener-Clark, LLC, a California Limited Liability Company, Craig W. Clark, managing member, Owners/Permittees, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
Douglas K. Humphreys  
Deputy City Attorney

DKH:ai

05/24/05

Or.Dept:DSD

R-2005-1228

MMS# 1706

C01410

Passed and adopted by the Council of The City of San Diego on April 19, 2005, by the following vote:

YEAS: PETERS, ZUCCHET, ATKINS, YOUNG, MAIENSCHIN, FRYE,  
MADAFFER, & MAYOR MURPHY.

NAYS: NONE.

NOT PRESENT: INZUNZA.

VACANT: NONE.

AUTHENTICATED BY:

DICK MURPHY

Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(Seal)

By: GIL SANCHEZ, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of  
RESOLUTION NO. R-300349, passed and adopted by the Council of The City of San  
Diego, California on April 19, 2005.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(SEAL)

By: , Deputy

ORIGINAL

001411

BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
\_\_\_\_\_  
Douglas K. Humphreys  
Deputy City Attorney

DKH:ai

03/30/05

Or.Dept:DSD

R-2005-1024

MMS 1706

001412

(R-2005-1024)

RESOLUTION NUMBER R- 300347ADOPTED ON APR 19 2005

WHEREAS, Burgener-Clark, LLC, a California Limited Liability Company, Craig W. Clark, managing member, Owner/Permittee, submitted an application to the City of San Diego for a tentative map, planned development permit and a site development permit; and

WHEREAS, the matter was set for a public hearing to be conducted by the Council of the City of San Diego; and

WHEREAS, the issue was heard by the City Council on APR 19 2005; and

WHEREAS, the City Council considered the issues discussed in the Mitigated Negative Declaration No. 5540; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that the Mitigated Negative Declaration No. 5540, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 *et seq.*), as amended, and the State guidelines thereto (California Code of Regulations section 15000 *et seq.*), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of tentative map, planned development agreement and site development agreement for Bay View Plaza Project.

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## EXHIBIT A

MITIGATION, MONITORING AND REPORTING PROGRAM  
BAY VIEW PLAZA  
PLANNED DEVELOPMENT PERMIT, SITE DEVELOPMENT PERMIT AND  
TENTATIVE MAP  
Project No. 5540

This Mitigation, Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation, Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. All mitigation measures contained in the Mitigated Negative Declaration (Project No. 5540) shall be made conditions of the Planned Development Permit and Site Development Permit as may be further described below.

Paleontological Resources

**Prior to Preconstruction Meeting**

1. *Land Development Review (LDR) Plan Check*

Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Assistant Deputy Director (ADD) of Land Development Review (LDR) shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.

---

2. *Letters of Qualification have been Submitted to the ADD*

Prior to the recordation of the first final map, NTP, or any permits, including but not limited to, issuance of the first Grading Permit and Building Plans/Permits, the applicant shall provide a letter of verification to the ADD of LDR stating that a qualified Paleontologist, as defined in the City of San Diego Paleontological Guidelines, has been retained to implement the monitoring program.

### 3. *When Monitoring Will Occur*

Prior to the start of work, the Paleontologist also shall submit a construction schedule to MMC through the RE, or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.

### **During Construction**

#### 1. *Monitor Shall be Present During Grading/Excavation*

The qualified Paleontologist shall be present full-time during the initial cutting of previously undisturbed formations with high and moderate resource sensitivity, and shall document activity via the Consultant Site Visit Record (form). This record shall be faxed to the RE, or BI as appropriate, and MMC each month.

#### 2. *Discoveries*

##### a. MINOR PALEONTOLOGICAL DISCOVERY

In the event of a minor Paleontological discovery (small pieces of broken common shell fragments or other scattered common fossils) the Paleontologist shall notify the RE, or BI as appropriate, that a minor discovery has been made. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist will continue to monitor the area and immediately notify the RE, or BI as appropriate, if a potential significant discovery emerges.

##### b. SIGNIFICANT PALEONTOLOGICAL DISCOVERY

In the event of a significant Paleontological discovery, and when requested by the Paleontologist, the city RE, or BI as appropriate, shall be notified and shall divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist with Principal Investigator (PI) level evaluation responsibilities shall also immediately notify MMC staff of such finding at the time of discovery. MMC staff will coordinate with appropriate LDR staff. Further, LDR staff and MMC staff will coordinate with the Applicant in securing the project area to control access during recovery of fossil remains.

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**Post Construction**

1. The Paleontologist shall be responsible for preparation of fossils to a point of curation as defined by the City of San Diego Paleontological Guidelines.

a. SUBMIT LETTER OF ACCEPTANCE FROM LOCAL QUALIFIED CURATION FACILITY.

The Paleontologist shall be responsible for submittal of a letter of acceptance to the ADD of LDR from a local qualified curation facility. A copy of this letter shall be forwarded to MMC.

b. IF FOSSIL COLLECTION IS NOT ACCEPTED, CONTACT LDR FOR ALTERNATIVES

If the fossil collection is not accepted by a local qualified curation facility for reasons other than inadequate preparation of specimens, the project Paleontologist shall contact LDR, to suggest an alternative disposition of the collection. MMC shall be notified in writing of the situation and resolution.

c. RECORDING SITES WITH SAN DIEGO NATURAL HISTORY MUSEUM

The Paleontologist shall be responsible for the recordation of any discovered fossil sites at the San Diego Natural History Museum

d. FINAL RESULTS REPORT

1. Prior to the release of the grading bond, two copies of the Final Results Report (even if negative), which describes the results, analysis, and conclusions of the above Paleontological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ADD of LDR.

a. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.

Human Health/Public Safety

1. Prior to the issuance of any demolition permits, proper testing shall be conducted by the applicant, to the satisfaction of the City Engineer, to determine if asbestos or lead-based paints exist within the structures slated for demolition. If testing shows the presence of asbestos or lead-based paints, then proper precautions shall be made during the removal and disposal of these materials, as regulated by state agencies (Cal-OSHA and Cal-EPA) and the San Diego Air Pollution Control District Rule 361.145



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- e) name and location of recycling, reuse, or landfill facilities where waste will be taken if not reused on-site,
- f) a "buy recycled" program,
- g) how the project will aim to reduce the generation of construction/demolition debris,
- h) a plan of how waste reduction and recycling goals will be communicated to subcontractors,

- 
- i) a time line for each main phase of the project as stated above.

- 3) The plan shall strive for a goal of 50% waste reduction.
- 4) The plan shall include specific performance measures to be assessed upon the completion of the project to measure success in achieving waste minimization goals. The permittee shall notify MMC and ESD when:
  - a) A construction permit is issued.
  - b) When construction begins.
  - c) The permittee shall arrange for progress inspections, and a final inspection, as specified in the plan and shall contact both MMC and ESD to perform these periodic site visits during construction to inspect the progress of the project's waste diversion efforts. Notification shall be sent to:

MMC/Tony Gangitano	Angelee Mullins
Mitigation Monitoring Coordination	Environmental Services Dept
9601 Ridgehaven Court	9601 Ridgehaven Court
Ste. 320, MS 1102B	Ste. 320, MS 1103B
San Diego, CA 92123-1636	San Diego, CA 92123-1636
(619) 980-7122 or	(858) 492-5010
<u>(858) 627-3360</u>	

- d) When Demolition ends.
- 5) Prior to the issuance of a grading permit, the applicant shall receiver approval from the ADD that the Waste Management Plan has been prepared, approved, and implemented. Also, prior to the issuance of

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provide a center two-way left turn lane to the satisfaction of the City Engineer.

- 2) The applicant shall provide and maintain an additional four (4) parking spaces (above the minimum required of 468 for the project) on-site to replace the four parking spaces on the west side of Denver Street that would be lost due to the restriping of Denver Street to provide a center two-way left turn lane.
-

TO: X Recorder/County Clerk  
P.O. Box 1750, MS A33  
1600 Pacific Hwy, Room 260  
San Diego, CA 92101-2422

FROM: City of San Diego  
Development Services Department  
1222 First Avenue, MS 501  
San Diego, CA 92101

Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

001418

LDR Number: 5540

State Clearinghouse Number: N/A

Permit Number: 5540

Project Title: Bay View Plaza

Project Location: Site is just south of Clairemont Drive and east of Morena Boulevard and north of Ingulf Street, in the Clairemont Mesa Community Plan area, City/County of San Diego.

Project Description: PLANNED DEVELOPMENT PERMIT (PDP), SITE DEVELOPMENT PERMIT (SDP) and TENTATIVE MAP to develop an 86,770-square-foot, multi-use commercial/retail center with an 88,747-square-foot semi-subterranean parking garage, on an 5.31-acre site. Demolition of all existing structures and improvements would be required prior to project construction. The project proposes the construction of five buildings, ranging in heights from one to three stories. The center would incorporate a parking deck over the garage to provide additional on-site parking. The SDP would be required for the project's exceedance of the 30-foot height limit, and the PDP would be required for the project's encroachment into the 20-foot street setbacks. Zoned CC-1-3. Applicant: Burgener-Clark, LLC, Craig Clark, 4180 La Jolla Village Drive, La Jolla, CA 92037, Tele. No. (858) 453-7260.

This is to advise that the City of San Diego City Council on 4-19-05 approved the above described project and made the following determinations: R-300347

1. The project in its approved form X will, \_\_\_ will not, have a significant effect on the environment.
2. \_\_\_ An Environmental Impact Report was prepared for this project and certified pursuant to the provisions of CEQA.
- X A Mitigated Negative Declaration (Project No. 5540) was prepared for this project pursuant to the provisions of CEQA.

Record of project approval may be examined at the address above.

3. Mitigation measures X were, \_\_\_ were not, made a condition of the approval of the project.
4. (EIR only) Findings \_\_\_ were, \_\_\_ were not, made pursuant to CEQA Guidelines Section 15091.
5. (EIR only) A Statement of Overriding Considerations \_\_\_ was, \_\_\_ was not, adopted for this project.

It is hereby certified that the final environmental report, including comments and responses, is available to the general public at the office of the Land Development Review Division, Fifth Floor, Development Services Building, 1222 First Avenue, San Diego, CA 92101.

Analyst: Lowry

Telephone: (619) 446-5368

Filed by: [Signature], Deputy City Clerk

Signature, Title

CALIFORNIA DEPARTMENT OF FISH AND GAME  
CERTIFICATE OF FEE EXEMPTION

ATTACHMENT 9

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*De Minimis Impact Finding or  
One Fee Per Project Provision*

**Project Title/Location (include county):** Bay View Plaza, located at 2509-2591 Clairemont Drive, City/County of San Diego, in the Clairemont Mesa Community Plan area.

LDR NO. 5540

SCH NO. N/A

**Project Applicant:** Burgener-Clark LLC, Craig Clark, 4180 La Jolla Village Drive, La Jolla, CA 92037, Tele. No. (858) 453-7260.

**Project Description:** PLANNED DEVELOPMENT PERMIT (PDP), SITE DEVELOPMENT PERMIT (SDP) and TENTATIVE MAP to develop an 86,770-square-foot, multi-use commercial/retail center with an 88,747-square-foot semi-subterranean parking garage, on a 5.31-acre site. Demolition of all existing structures and improvements would be required prior to project construction. The project proposes the construction of five buildings, ranging in heights of one to three stories. The center would incorporate a parking deck over the garage to provide additional on-site parking. The SDP would be required for the project's exceedance of the 30-foot height limit, and the PDP would be required for the project's encroachment into the 20-foot street setbacks. Zoned CC-1-3.

**Findings of Exemption (attach as necessary):**

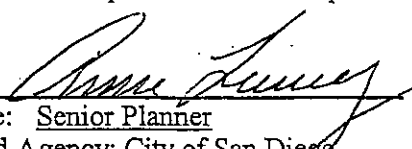
A Mitigated Negative Declaration and Initial Study have been prepared for the project. The report concludes that there is substantial evidence in the record that the project would result in a de minimis impact to wildlife resources as all of the following apply:

1. No significant biological resources exist on the project site.
2. The project would have no adverse impacts on biological resources located off-site.
3. No biological studies were requested for the project.
4. No mitigation measures are proposed to address impacts to biological resources.
5. No conditions in any discretionary actions associated with the project address biological resource issues.
6. No broader impacts on a habitat were identified.

**Certification:**

I hereby certify that the lead agency has made the above findings of fact and that based upon the initial study and hearing record, the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

Gary Halbert, Director  
Development Services Department

By:   
Title: Senior Planner  
Lead Agency: City of San Diego  
Date: 3/17/15

001420

(R-2005-1034)

RESOLUTION NUMBER R- 300348ADOPTED ON APR 19 2005

WHEREAS, Burgener-Clark LLC, a California Limited Liability Company, Craig W. Clark, Applicant, and Latitude 33 Planning and Engineering, Engineer, submitted an application to the City of San Diego for a two-lot tentative map (Tentative Map No. 179620) for the Bay View Plaza project [Project], located 2509-2591 Clairemont Drive, and, and legally described as bounded by Clairemont Drive to the north, Denver Street to the east, Ingulf Street to the south and Morena Blvd. to the west, legally described as Lots 1 and 2 of West Claremont Plaza Unit. 1, Map No. 3780, in the CC-1-3 Zone of the Clairemont Mesa Community Plan;

WHEREAS, on January 27, 2005, the Planning Commission of the City of San Diego considered Tentative Map No. 179620, and pursuant to Resolution No. 3646.1-PC voted to recommend approval by the City Council of a Tentative Map, Planned Development Permit and Site Development Permit; and

WHEREAS, the matter was set for public hearing on APR 19 2005, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Tentative Map No.179620:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code section 125.0440.a and State Map Action sections 66473.5, 66474(a), and 66474(b)).
2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code section 125.0440.b).

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3. The site is physically suitable for the type and density of development (Land Development Code section 125.0440.c and State Map Act sections 66474(c) and 66474(d)).
4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat (Land Development Code section 125.0440.d and State Map Act section 66474(e)).
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (Land Development Code section 125.0440.e and State Map Act section 66474(f)).
6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (Land Development Code section 125.0440.f and State Map Act section 66474(g)).
7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (Land Development Code section 125.0440.g and State Map Act section 66473.1).
8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code section 125.0440.h and State Map Act section 66412.3).
9. The Subdivider shall underground existing and/or proposed utility systems and service facilities in accordance with the San Diego Municipal Code.
10. The property contains right-of-way which must be vacated and public service easements which must be modified and abandoned to implement the final map in accordance with San Diego Municipal Code section 125.0430.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), all easements and portions of public rights-of-way located within the project boundaries as shown in Tentative Map No.179620, shall be modified, abandoned or vacated as appropriate, contingent upon the recordation of the approved final map for the project.

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BE IT FURTHER RESOLVED, that said easements and portions of public rights-of-way shall be modified, abandoned or vacated, contingent upon easement reservations or relocations of gas and electric facilities satisfactory to the San Diego Gas and Electric Company.

BE IT FURTHER RESOLVED, that said easements and portions of public rights-of-way shall be modified, abandoned or vacated, contingent upon the relocation of water facilities satisfactory to the City Engineer.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), the following public service easements, located within the project boundaries as shown in Tentative Map No. 179620, shall be modified and vacated, contingent upon the recordation of the approved final map for the project:

- a. A portion of the building restricted easement granted on Parcel Map No. 3780.
  - b. A portion of the general access and utility easement dedicated by Document recorded 9-20-2001 as File No. 2001-0678260. Said easement shall be vacated upon realignment and dedication of a general access and utility easement, satisfactory to the City Engineer.
  - c. A portion of the pedestrian and non-motor vehicular right of way dedicated on Map No. 3780. Said easement shall be vacated upon realignment and dedication of a pedestrian and non-motor vehicular right of way, satisfactory to the City Engineer.
  - d. A portion of the open space easement granted on Map 3780. Said easement shall be vacated upon realignment and dedication of an open space easement, satisfactory to the City Engineer.
- 

The property contains right-of-ways and public service easements which must be vacated to implement the parcel map in accordance with San Diego Municipal Code section 125.0430.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66445 (j), a portion of Clairemont Drive, a portion of Morena Boulevard and portions of certain

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public service easements, located within the project boundaries as shown in Tentative Map No. 1-79620, shall be vacated, contingent upon the recordation of the approved parcel map for the project.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66445 (j) the following public service easements, located within the project boundaries as shown in Tentative Map No. 1-79620, shall be vacated, contingent upon the recordation of the approved final map for the project:

- a. Portions of the sewer, drainage and unnamed easements dedicated on Map No. 3780.
- b. The drainage easement recorded February 17, 1960 as File No. 36258 of Official Records.
- c. The public utilities easement recorded June 29, 1969 as File No. 115490 of Official Records.

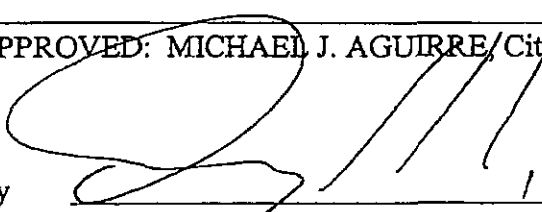
That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 179620, is hereby granted to Burgener-Clark LLC, a California Limited Liability Company, Craig W. Clark, Managing Member, Applicant/Subdivider, subject to the following conditions:

---

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
Douglas K. Humphreys  
Deputy City Attorney

DKH:ai  
04/04/05  
Or.Dept:DSD  
R-2005-1034  
MMS 1706



001424

CONDITIONS FOR TENTATIVE MAP NO. \_\_\_\_\_

\_\_\_\_\_  
PROJECT

ADOPTED BY RESOLUTION NO. R-\_\_\_\_\_ ON \_\_\_\_\_

**GENERAL**

1. This Tentative Map will expire \_\_\_\_\_.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted:
3. A Parcel Map shall be recorded in the Office of the County Recorder, prior to the Tentative Map expiration date.
4. This Parcel Map shall comply with the conditions of Site Development Permit No. 9100 and Planned Development Permit No. 179619.
5. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.

**ENGINEERING**

6. Prior to building occupancy, the applicant shall conform to section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.
7. The drainage system proposed for this development, as shown on the approved plans, is subject to approval by the City Engineer.
8. The subdivider shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
9. Prior to the issuance of grading permits, a geotechnical investigation report shall be required that specifically addresses the proposed grading plans and cites the City's Job Order No. and Drawing No. The geotechnical investigation shall provide specific geotechnical grading recommendations and include geotechnical maps, using the grading plan as a base, that depict recommended location of subdrains, location of outlet headwalls, anticipated removal depth, anticipated over-excavation depth, and limits of remedial grading.
10. The subdivider shall vacate portions of Clairemont Drive and Morena Boulevard, and portions of drainage easements and sewer easements.

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11. The subdivider shall obtain an Encroachment Maintenance and Removal Agreement, from the City Engineer, for private drains in Clairemont Drive and Morena Boulevard, for a private drain connection to the public drain in Morena Boulevard south of Ingulf Street and for landscaping in Denver Street, Ingulf Street and Morena Boulevard.

12. Prior to the issuance of any construction permits, the applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

13. Prior to the issuance of any construction permits, the applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, consistent with the approved Water Quality Technical Report.

14. Prior to the issuance of any construction permits, the applicant shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

15. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in section C.7 of SWRCB Order No. 99-08-DWQ.

16. The subdivider shall close all unused driveways on each adjoining street, install a 30-foot driveway and a 12-foot driveway on Ingulf Street, drain pipes in Clairemont Drive and Morena Boulevard, a 24-foot driveway on Morena Boulevard and curb, gutter, sidewalk, a 20-foot driveway and a 14-foot driveway at the proposed entrance on Clairemont Drive. This work shall be shown on the grading plan and included in the grading permit.

17. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

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All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

## MAPPING

18. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).

19. "California Coordinate System" means the coordinate system as defined in section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."

20. Every Parcel Map shall:

a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

21. The design of the subdivision shall include private easements, if any, serving parcels of land outside the subdivision boundary or such easements must be removed from the title of the subdivided lands prior to filing any parcel or final map encumbered by these easements.

## WASTEWATER

22. The developer shall relocate all on-site public sewer mains to a public right-of-way, satisfactory to the Metropolitan Wastewater Department Director. Any associated on-site public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director.

23. The developer shall grant adequate sewer, and/or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within public rights-of-way, satisfactory to the Metropolitan Wastewater Department Director.

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24. No structures or landscaping that would inhibit vehicular access shall be installed in or over any sewer access easement.
25. No approved structures or landscaping shall be installed in or over any easement prior to the Applicant obtaining an Encroachment Maintenance and Removal Agreement.
26. No trees or shrubs exceeding three-feet in height at maturity shall be installed within ten-feet of any public sewer facilities.
27. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

#### **WATER**

28. The Subdivider shall design and construct public 16-inch water facilities within the Morena Boulevard right-of-way, from Ingulf Street to the northerly project boundary, replacing the existing water facilities adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.
29. The Subdivider shall install and/or replace fire hydrants at locations satisfactory to the Fire Marshal, the Water Department Director and the City Engineer. All on-site fire hydrants shall be private.
30. The Subdivider agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities as shown on the approved tentative map shall be modified at final engineering to comply with standards.

#### **GEOLOGY**

31. Prior to the issuance of a grading permit, a geotechnical report shall be submitted and approved by the City Engineer in accordance with the City of San Diego's Technical Guidelines for Geotechnical Reports.

#### **LANDSCAPING**

32. Prior to the recordation of the parcel map, the subdivider shall submit complete landscape construction documents, including plans, details, and specifications (including a permanent automatic irrigation system unless otherwise approved), for the required right-of-way and median (if applicable) improvements, slope revegetation and hydroseeding of all disturbed land in accordance with the Landscape Standards and to the satisfaction of the City Manager. The landscape construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. The applicant shall assure by permit and bond the installation of landscaping per landscape construction documents.

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33. Prior to the recordation of the parcel map, the Permittee or subsequent Owner/Developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within the public right-of-way area consistent with Exhibit 'A.' The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recordation of the parcel map.

**INFORMATION:**

- The approval of this Tentative Map by the City Council of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC section 1531 *et seq.*).
- If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- This development may be subject to payment of a park fee prior to the filing of the Parcel Map in accordance with San Diego Municipal Code.
- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within 90 days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

TO: X Recorder/County Clerk  
 P.O. Box 1750, MS A33  
 1600 Pacific Hwy, Room 260  
 San Diego, CA 92101-2422

FROM: City of San Diego  
 Development Services Department  
 1222 First Avenue, MS 501  
 San Diego, CA 92101

001429

Office of Planning and Research  
 1400 Tenth Street, Room 121  
 Sacramento, CA 95814

LDR Number: 5540

State Clearinghouse Number: N/A

Permit Number: 5540

Project Title: Bay View Plaza

Project Location: Site is just south of Clairemont Drive and east of Morena Boulevard and north of Ingulf Street, in the Clairemont Mesa Community Plan area, City/County of San Diego.

Project Description: PLANNED DEVELOPMENT PERMIT (PDP), SITE DEVELOPMENT PERMIT (SDP) and TENTATIVE MAP to develop an 86,770-square-foot, multi-use commercial/retail center with an 88,747-square-foot semi-subterranean parking garage, on an 5.31-acre site. Demolition of all existing structures and improvements would be required prior to project construction. The project proposes the construction of five buildings, ranging in heights from one to three stories. The center would incorporate a parking deck over the garage to provide additional on-site parking. The SDP would be required for the project's exceedance of the 30-foot height limit, and the PDP would be required for the project's encroachment into the 20-foot street setbacks. Zoned CC-1-3. Applicant: Burgener-Clark, LLC, Craig Clark, 4180 La Jolla Village Drive, La Jolla, CA 92037, Tele. No. (858) 453-7260.

This is to advise that the City of San Diego City Council on 4-19-05 approved the above described project and made the following determinations: R-300347

1. The project in its approved form X will, \_\_\_ will not, have a significant effect on the environment.
2. \_\_\_ An Environmental Impact Report was prepared for this project and certified pursuant to the provisions of CEQA.
- X A Mitigated Negative Declaration (Project No. 5540) was prepared for this project pursuant to the provisions of CEQA.

Record of project approval may be examined at the address above.

3. Mitigation measures X were, \_\_\_ were not, made a condition of the approval of the project.
4. (EIR only) Findings \_\_\_ were, \_\_\_ were not, made pursuant to CEQA Guidelines Section 15091.
5. (EIR only) A Statement of Overriding Considerations \_\_\_ was, \_\_\_ was not, adopted for this project.

It is hereby certified that the final environmental report, including comments and responses, is available to the general public at the office of the Land Development Review Division, Fifth Floor, Development Services Building, 1222 First Avenue, San Diego, CA 92101.

Analyst: Lowry

Telephone: (619) 446-5368

Filed by: [Signature], Deputy City Clerk  
 Signature, Title

Reference: California Public Resources Code, Sections 21108 and 21152.

CALIFORNIA DEPARTMENT OF FISH AND GAME  
CERTIFICATE OF FEE EXEMPTION

ATTACHMENT 9

001430

De Minimis Impact Finding or  
One Fee Per Project Provision

Project Title/Location (include county): Bay View Plaza, located at 2509-2591 Clairemont Drive, City/County of San Diego, in the Clairemont Mesa Community Plan area.

LDR NO. 5540

SCH NO. N/A

Project Applicant: Burgener-Clark LLC, Craig Clark, 4180 La Jolla Village Drive, La Jolla, CA 92037, Tele. No. (858) 453-7260.

~~Project Description: PLANNED DEVELOPMENT PERMIT (PDP), SITE DEVELOPMENT PERMIT (SDP) and TENTATIVE MAP to develop an 86,770-square-foot, multi-use commercial/retail center with an 88,747-square-foot semi-subterranean parking garage, on a 5.31-acre site. Demolition of all existing structures and improvements would be required prior to project construction. The project proposes the construction of five buildings, ranging in heights of one to three stories. The center would incorporate a parking deck over the garage to provide additional on-site parking. The SDP would be required for the project's exceedance of the 30-foot height limit, and the PDP would be required for the project's encroachment into the 20-foot street setbacks. Zoned CC-1-3.~~

Findings of Exemption (attach as necessary):

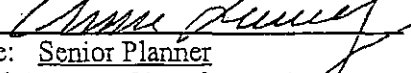
A Mitigated Negative Declaration and Initial Study have been prepared for the project. The report concludes that there is substantial evidence in the record that the project would result in a de minimis impact to wildlife resources as all of the following apply:

1. No significant biological resources exist on the project site.
2. The project would have no adverse impacts on biological resources located off-site.
3. No biological studies were requested for the project.
4. No mitigation measures are proposed to address impacts to biological resources.
5. No conditions in any discretionary actions associated with the project address biological resource issues.
6. No broader impacts on a habitat were identified.

Certification:

I hereby certify that the lead agency has made the above findings of fact and that based upon the initial study and hearing record, the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

Gary Halbert, Director  
Development Services Department

By:   
Title: Senior Planner  
Lead Agency: City of San Diego  
Date: 3/17/05

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Page 1 of 1

**Mahzari, Farah**

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**From:** Eric and Brooke Peterson [thepetes@hotmail.com]  
**Sent:** Thursday, March 20, 2008 11:53 AM  
**To:** Mahzari, Farah  
**Subject:** RE: BAY VIEW PLAZA

Farah,

We have not prepared the official draft minutes yet so that aren't available to send. However yes, the Bay View Plaza project with proposed changes from original project (per original project permit approval) was recommended for approval by the Clairemont Mesa Planning Committee on Tuesday, March 18. Vote 11 in favor-0 against-0 abstentions, motion passed unanimously.

Please let me know if you need anything else.

Brooke Peterson, CMPC Chair

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THE CITY OF SAN DIEGO

City of San Diego  
Development Services  
1222 First Ave., MS-302  
San Diego, CA 92101  
(619) 446-5000

# Ownership Disclosure Statement

**Approval Type:** Check appropriate box for type of approval (s) requested: ☐ Neighborhood Use Permit ☐ Coastal Development Permit  
☐ Neighborhood Development Permit ☐ Site Development Permit ☐ Planned Development Permit ☐ Conditional Use Permit  
☐ Variance ☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment • ☒ Other Permit Amendment

Project Title

Bay View Plaza

Project No. For City Use Only

149101

Project Address:

2509 - 2591 Clairemont Drive

C01432

**Part I - To be completed when property is held by individual(s)**

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached ☐ Yes ☒ No

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature:

Date:

Project Title: <b>001433</b>	Project No. (For City Use Only)
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Partial - To be completed when property is held by a corporation or partnership

**Legal Status (please check):**

☐ Corporation   
 ☒ Limited Liability -or-   
 ☐ General) What State? CA   
 Corporate Identification No. 199732310012  
☐ Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached ☐ Yes ☒ No

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Corporate/Partnership Name (type or print):  
Burgener-Clark, LLC

☒ Owner    ☐ Tenant/Lessee

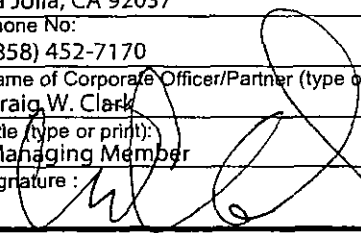
Street Address:  
4180 La Jolla Village Drive, Suite 405

City/State/Zip:  
La Jolla, CA 92037

Phone No: (858) 452-7170    Fax No: (858) 453-7260

Name of Corporate Officer/Partner (type or print):  
Craig W. Clark

Title (type or print):  
Managing Member

Signature:     Date: 01/17/2008

Corporate/Partnership Name (type or print):

☐ Owner    ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:    Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:    Date:

---

Corporate/Partnership Name (type or print):  
BRUCE BURGNER

☒ Owner    ☐ Tenant/Lessee

Street Address:  
4175 NORFOLK TR.

City/State/Zip:  
SD CA 92116

Phone No: (619) 269-3409    Fax No:

Name of Corporate Officer/Partner (type or print):  
BRUCE BURGNER

Title (type or print):  
Member of LLC

Signature:    Date:

Corporate/Partnership Name (type or print):

☐ Owner    ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:    Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:    Date:

---

Corporate/Partnership Name (type or print):

☐ Owner    ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:    Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:    Date:

Corporate/Partnership Name (type or print):

☐ Owner    ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:    Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:    Date:

001434

Attachment 12

DEVELOPMENT SERVICES  
**Project Chronology**

**BAY VIEW PLAZA PTS 149101- JO# 43-0260**

<b>Date</b>	<b>Action</b>	<b>Description</b>	<b>City Review Time</b>	<b>Applicant Response</b>
01/28/08	<b>First Submittal</b>	<b>Project Deemed Complete</b>	<b>NA</b>	<b>NA</b>
02/04/08	First Review		03/07/08	
03/14/08	All issues resolved		03/14/08	
04/03/08	Public Hearing	First available Planning Commission hearing date		
<b>TOTAL STAFF TIME</b>			<b>34 days</b>	
<b>TOTAL APPLICANT TIME</b>				<b>7 days</b>
<b>TOTAL PROJECT RUNNING TIME</b>		From Deemed Complete to PC Hearing	<b>41 days</b>	